



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: 7922/1023/2017

Dated : 02.11.2018

In the matter of :

Dispatch No. ....

Shri R.S. Yadav, UDC,  
National JALMA Institute for Leprosy and Other Mycobacterial Diseases,  
Taj Ganj,  
Agra  
Uttar Pradesh- 282 004  
Email<yadavjijalma@gmail.com>

.....Complainant

**Versus**

The National JALMA Institute for Leprosy & Other Mycobacterial Diseases,  
(Through the Director-in-Charge),  
Taj Ganj,  
Agra,  
Uttar Pradesh- 282 004

.....Respondent

**Date of Hearings : 10.08.2018 AND 19.07.2018**

**Present :**

1. Shri R.S. Yadav, the Complainant along with Shri L.D. Pushp, Legal Advisor,
2. Shri Dharmendra Singh, on behalf of Respondent.

### ORDER

The above named complainant, a person with 40% visual impairment had filed a complaint dated 24.04.2017 under the Rights of Persons with Disabilities Act, 2016, regarding denial of promotion and non implementation of Rights of Persons with Disabilities Act, 2016.

2. The complaint submitted that he is presently working as U.D.C. in National Jalma Institute for Leprosy and other Microbacterial Diseases under ICMR in Agra. His grievance is regarding non implementation of Rights of Persons with Disabilities Act, 2016 by his establishment. He submitted that his department failed to maintain the account of both the identified and unidentified posts, the total number of vacancies to be kept reserved for each of the disabled categories etc. He was also denied the promotion under the reservation for persons with disabilities. He represented many times to his establishment regarding his promotion, but no heed was given to his request.

.....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 22.09.2017.

4. The Director Incharge, National Jalma Institute for Leprosy & Other Mycobacterial Diseases vide his letter no. NJIL/2017-28/Legal Cell/383 dated 24.10.2017 stated that Shri R.S. Yadav working as UDC was declared as a 40% visually impaired person on 23.08.2016 and, therefore, 3% PH quota was applied on him in Direct Recruitment/Limited Department Competitive Examination/DPC. He stated that his case will be considered in future. The Respondent vide another letter no. NJIL/2017-18/case 7922/RSY/15 dated 28.03.2018 submitted that the complainant is presently working as UDC at their institute and appointed as LDC on 28.11.1985 and was subsequently promoted to the post of UDC on 01.09.1994. On 31.01.2013, the complainant was promoted and appointed on the post of Assistant on Ad-hoc and was reverted to the post of UDC. He was declared a person from visual impairment with 40% disability on 23.08.2016. Hence, 3% quota of physically handicapped has not been applied to him in Direct recruitment. He submitted that their institute is following the policy of reservation for persons with disabilities. One person who is deaf and dumb is appointed on the post of Lascar/Khalasi is now designated as MTS. Another employee, who is visually handicapped is appointed on the post of Jr. Stenographer in Group C on direct recruitment. He submitted that as such it is not true that institute did not give effect to the act of reservation of disabled person. He submitted that as and when the post of Assistant is filled up, his case will be considered for promotion / section.

5. The complainant vide his rejoinder dated 25.11.2017 submitted that Respondent was advised vide this Court's letter dated 22.09.2017 to submit the copy of Roster duly signed by a Liaison Officer. He vide his letter dated 08.05.2018 has submitted that the Respondent's submission in their reply dated 28.03.2018 that he was promoted and appointed on the post of Assistant on Ad-hoc is not true where as he was promoted to the post of Assistant by qualifying the Limited Departmental Competitive Examination in March 2013 and therefore a person promoted through Limited Departmental Competitive Examination (DPC) cannot be appointed on ad-hoc basis and cannot be reverted back. He submitted that on 13.09.2013, two UDCs and on 14.06.2015 one UDC who were junior to him were promoted through DPC.

6. After considering Respondent's reply dated 28.03.2018 and Complainant's rejoinder dated 08.05.2018, a personal hearing was scheduled on 19.07.2018.

7. During the hearing the representative of Respondent vide his letter dated 19.07.2018 submitted that Shri R.N. Singh, Lawyer of their department has been appointed as Member of Judiciary at Hon'ble CAT, Mumbai. He requested to adjourn the hearing in the month of September.

8. The Court adjourned the hearing to 10.08.2018 at 3 p.m.

9. During the hearing on 10.08.2018 the complainant submitted that he is presently working as U.D.C.. He submitted that although he is the senior most employee, he was denied the promotion. His department is not implementing the Rights of Persons with Disabilities Act, 2016 and it has failed to maintain the roster.

10. During the hearing on 10.08.2018 the representatives of Respondent submitted that the complainant was declared a person with 40% visual impairment on 23.08.2016. Hence the 3% quota for PH person was not applied to him in direct recruitment. He submitted that as and when the post of Assistant is filled up, the complainant will be considered for his next promotion

11. The Court felt that there is violation of Rights of Persons with Disabilities Act, 2018 by the Respondent. The Court directed the Respondent to revert the complainant to the post of Assistant with all the arrears of salary and other benefits with retrospective effect within 4 months from the date of last hearing in the case. The Court also directed the Respondent to submit a copy of Roster since 01.01.1996. The compliance report in this regard to be submitted to the court within 3 months from the date of issuance of this Order.

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



सत्यमेव जयते

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MORTSH

## 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.: 7352/1141/2017

Dated 02.11.2018

#### In the matter of:

Shri Jagdish Kumar Lohar  
(a person with 40% locomotor disability)  
C/o Patrick D'Souza, 20, Surya Colony,  
Residency Road, Jodhpur-342001 (Raj.)

Shri Sharvan Kumar Upadhyay,  
(a person with 60% locomotor disability)  
Shri Sandesh Photocopier, Plot No.427,  
Rajan Amplifier Gali, 1<sup>st</sup> C Road,  
Sardarpura, Jodhpur-342003

Shri Chandan Singh,  
(a person with 40% locomotor disability)  
TGT-Hindi, Kendriya Vidyalaya (AFS) No.1,  
Jodhpur-342011

.... Complainants

#### Versus

National Highway Authority of India,  
[Through: The Chief General Manager (Co)]  
Ministry of Road Transport and Highways,  
G 5&6, Sector-10, Dwarka, New Delhi-110075

Date of hearing: 07.05.2018

#### Present:

1. Shri Jagdish Kumar Lohar, complainant
2. Shri Sudhir Mathur, Project Director-cum-Sup.Eng.(NH), Jodhpur and Shri Mohit Bhatnagar, Counsel
3. None appeared for respondent

### ORDER

The above named complainants, all persons with locomotor disabilities, filed a joint complaint dated 14.12.2016 under the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 (PwD Act, 1995] regarding refusal to exempt from payment of user fee in case of mechanical vehicle specially designed and constructed Invalid Carriage – Car No..RJ19 EA 3949 for use of persons suffering from some physical disability, at Jodhpur-Pali Express Way (NH 62) on 30.10.2016 and 02.11.2016. The complainants alleged that despite showing and making aware about the exemption from toll fees, the employees at toll plaza refused to exempt the user fee and charged the toll fee as per the receipts.

Page 1 of 2

2. The matter was taken up with the respondent under Section 59 of the PwD Act, 1995 vide letter dated 13.02.2017 for submission of comments on the complaint. When no reply received from the respondent despite sending reminders dated 20.07.2017 and 10.11.2017, the case was listed for hearing on 07.05.2018 vide Notice of Hearing dated 13.04.2018.

3. After issuance of the notice of hearing, the respondent filed their reply dated 26.04.2018 and submitted that the matter pertains to the incident on Jodhpur-Pali (NH-62) stretch in Rajasthan which does not fall under jurisdiction of NHAI and, the stretch is with MoRTH. The matter was forwarded to MoRTH vide their letter No.NHAI/CO/2017/Misc./Court Case/116807 dated 26.04.2018. MoRTH, pursuant to amendment to Fee Rules vide GSR 585(E) dated 08.06.2016, vide their letter No.H-25016/01/2014(Toll) Vol-II (Part)/132 dated 20.09.2016 decided that this exemption be extended to all fee plazas on NHs.

4. During the hearing on 07.05.2018, the complainant reiterated his complaint of refusal to exempt the user fee at Jodhpur-Pali Express Way (NH 62) and violation of the Gazette Notification dated 8<sup>th</sup> June, 2016 in case of mechanical vehicle specially designed and constructed for the use of persons suffering from some physical disabilities. He expressed the need to include and mark subsequent information on display boards and hoardings mounted on every Toll Plazas that contain the index of toll fee vehicles.

5. None appeared for the respondent. However, one Shri Sudhakar Mathur, Director-cum-Sup. Eng. (NH), Jodhpur and one Shri Monit Bhatnagar, Counsel appeared before the Court and submitted that the case pertains to MoRTH. After the incident and knowing about the rules, the toll plaza staff allowed the complainant to pass.

6. After hearing the parties and the documents available on record, the respondent is advised to make necessary arrangements to exempt user fee for the vehicle specially designed and constructed for persons with disabilities and officials/staff at Toll Plazas remain sensitive towards the rights of persons with disabilities. The respondent is further advised to ensure that 'Mechanical Vehicle Specially Designed and Constructed for use of Person Suffering from Some Physical Defect or Disability' has been included in the list of Exempted Dignitaries on the Display Boards of at every Toll Plazas. A copy of this order be issued to the Secretary, Ministry of Road Transport & Highways and the Chairman, National Highways Authority of India for information and appropriate action at their end.

7. 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

केस सं० 7424/1102/2017

दिनांक: 05.11.2018

के मामले में:-

श्री रामाधर वर्मा  
590 ए, प्रथम तल  
शालीमार गार्डन एक्स-1  
शाहिबाबाद, गाजियाबाद  
नजदीक सचिन पब्लिक स्कूल  
उत्तर प्रदेश-201005

R-12217

-वादी

बनाम

कार्पोरेशन बैंक  
(द्वारा : अध्यक्ष)  
निगमित कार्यालय  
मंगलादेवी टेम्पल रोड  
पंदेश्वर, मंगलौर  
कर्नाटक-575001

R-12218

-प्रतिवादी

सुनवाई की तिथि: 12.10.2018

उपस्थित - श्री रामाधर वर्मा- स्वयं, वादी की तरफ से  
प्रतिवादी की तरफ से कोई उपस्थित नहीं हुए

### आदेश

श्री रामाधर वर्मा, दृष्टि दिव्यांग ने बैंक द्वारा उनको नियमानुसार बैंकिंग सुविधाएं प्रदान नहीं करने एवं उनके साथ अभद्र व्यवहार किए जाने से संबंधित शिकायत निःशक्त व्यक्ति(समान अवसर, अधिकार संरक्षण एवं पूर्ण भागीदारी) अधिनियम, 1995 के अंतर्गत इस न्यायालय में दायर की।

2. मामले को अधिनियम की धारा 59 के अंतर्गत पत्र दिनांक 22.03.2017 द्वारा प्रतिवादी के साथ उठाया गया। टिप्पण नहीं मिलने पर प्रतिवादी को स्मरण पत्र दिनांक 28.08.2017 भी भेजा गया।

3. सहायक महा प्रबन्धक(विधि), कार्पोरेशन बैंक ने अपने पत्र सं. एल.जी./765/2017/ओ.आर./1484/2017 दिनांक 20.09.2017 द्वारा न्यायालय को निम्नलिखित अवगत किया कि :-

- We had called for comments from their aforesaid branch regarding the complaint/allegation made by the complainant.
- It is informed by the branch that the alleged incident took place during demonetization period.
- When, Mr. Ramadhar Verma visited the branch during the period of demonetization, more than 1500 people were waiting outside the branch and around 200 people were inside the branch which included ladies, senior citizens, children and people with physical disabilities. There were many policemen present in the branch to handle the crowd.

- On 30.11.2016, the branch staff noticed that Shri Ramadhar Verma (visually impaired person) was trying to enter the branch but was unable to do so due to heavy crowd outside. At the request of branch staff, the policeman allowed him to enter the branch.
- The complainant gave instruction to withdraw Rs. 24,000/- from his account.
- Due to shortage of new currency on the day, it was decided to allow withdrawal up to Rs. 10,000/- to SB accountholders and Rs. 20,000/- to Current Account holders.
- Accordingly, the branch requested the complainant to withdraw only Rs. 10,000/- at that time and to withdraw the remaining Rs. 14,000/- after 2 or 3 days. The complainant agreed for the same.
- Since the complainant was a person with physical disabilities, despite the huge crowd and busy schedule due to demonetisation, the branch staff attended to him by giving him a chair to sit and informing his son to take a cheque leaf from the counter so as to enable him to withdraw the cash.
- On instruction of the Branch Head, the sub-staff took his signature on the cheque leaf and gave him Rs. 10,000/-. As there was huge rush in the branch these process took some time. But, branch had provided him the best service that could be offered in such a situation
- Further, on 29.12.2016, the complainant visited the branch to withdraw Rs. 24,000/-. Due to shortage of currency, branch head requested him to withdraw only Rs. 10,000/- at that time. He was informed that if he could visit the branch in the afternoon, branch could arrange Rs. 24,000/-. He agreed for the same and visited the branch in the afternoon and requested for NEFT transfer. As per his request the amount was transferred and he was allowed to withdraw Rs. 24,000/-
- The branch had never ill-treated the complainant as alleged by him in his complaint. Despite the chaotic situation in the Branch due to demonetization, the Branch had provided him with the best service that could be offered to a physically disabled person in the given situation.
- It is also informed by the branch that there is no staff member by name "Mamata" working in the Branch as alleged by the Complainant.
- May be due to the unavoidable situations prevailing in the bank following demonetization as submitted above, the complainant would have been slightly inconvenienced when he visited the branch.
- All the allegations made by the complainant are devoid of any basis.

4. सहायक महाप्रबन्धक, कार्पोरेशन बैंक, दिलशाद गार्डन, नई दिल्ली ने अपने पत्र दिनांक 22.11.2017 द्वारा न्यायालय को निम्नलिखित अवगत किया कि:-

At the outset it is stated that the grievances raised by Shri Ramadhar Verma are not maintainable before this Hon'ble Forum. It appears that the complaint made by the complainant is at the instance of some other persons. It may also be stated that the bank has been treating all the customers alike. However, para-wise reply is as under:-

- It is a matter of record that the complainant opened account in Dilshad Garden Branch of the bank in the year 2005.

- Nothing has been found in record which suggests that the complainant gave circular of IBA for linking home loan taken by the complainant from Hdfc Bank to make payments through ECS from the bank.
- There is nothing on record that complainant was refused loan on account of blindness. However, it is a matter of record that he was granted car loan which he has paid.
- There is nothing on record to suggest that he was not allowed the facility of cheque and ATM as alleged. Copy of letter alleged to have been annexed has not been received. Thus proper reply can be given only after copy of letter alleged to be annexed with the complaint is provided.
- There is nothing on record in respect of letter dated 10.12.2010 as alleged. Copy of the said letter has not been supplied alongwith the complaint. The reply can be given only after receipt of alleged letter.
- There is nothing on record to suggest that the matter was referred by the complainant to the mediation. The alleged letter has not been supplied to the bank. Proper reply can only be submitted after copy of the said letter is supplied to the bank.
- Nothing has been found on the record regarding sending of letter by the manager of the Bank as alleged. Copy of the letter allegedly annexed with the complaint has not been supplied. Proper reply can be submitted only after receipt of the said letter.
- Letter dated 16.01.2011 alleged to have been annexed with the complaint is not received. Proper reply can only be given after copy of alleged letter is supplied.
- There is nothing found on record of the bank regarding allegation of supplying withdrawal form/cheque book for which he had to approach 3 or 4 officers for the said purpose.
- It is submitted that ATM card is for self use only. It is submitted that ATM card is not linked for payment online.
- There is nothing on record of the bank that he requested for ECS for making payment of loan to Canara Bank.
- In respect of complaint during the period from 10.11.2016 to 30.12.2016 it is submitted that 1000/- and 500/- rupee notes were demonetized. There were long queues for exchanging old currency notes and persons standing in the queue would not allow any person standing in the queue would not allow any person to go inside the branch and in view of the pressure of the crowd comprising of more than 1500 people in queue outside the Bank and around 200 people were inside the Bank including ladies, senior citizen, children and people with disability. The Branch Manager asked for Police assistance to handle the crowd.
- This was not the situation only for one day but is continued for the period from 10.11.2016 to 30.12.2016 i.e. demonetization period. The people in queue outside were not allowing entry even to their loan clients, locker clients, senior citizens and people with disability saying that they are also facing the same problem. When the bank officials tried to make someone enter inside the bank people used to abuse them and resisted such entry. The fact is that the situation outside the bank during demonetization period was abnormal. On 30.11.2016 one staff member of the bank had seen the complainant trying to enter the branch but he was not able to enter. The staff of the bank requested one police man to help him enter inside the bank then only he could enter the branch of the bank.
- Due to cash shortage of new currency it was decided by the bank officials to accommodate everyone and gave only Rs. 10,000/- to saving account holder and Rs. 20,000/- to current

account holder. In these circumstances that official of the bank requested the complainant to take Rs. 10,000/- at that time and take another Rs. 14,000/- after 2 or 3 days for which the complainant agreed. The officials of the bank had offered the complainant a chair to sit and told his son to take a loose cheque leaf from the counter as there was long queue but he was not able to get it. At that point of time the undersigned instructed his sub-staff to take loose leaf and obtain his signature and give him Rs. 10,000/- from the counter and he was given Rs. 10,000/-. Since there was huge rush this process took sometime but in these circumstances best services were provided to the complainant. The complainant visited the branch of the bank on 29.12.2016 and wanted to withdraw Rs. 24,000/-. The official of the bank requested him to take Rs. 10,000/- at that point of time because of shortage of cash and told him that staff of the bank has given to bring cash from Currency Chest. It was also told to him that if he comes in the afternoon in that event the bank officials would be able to give him Rs. 24,000/- to which he agreed. He came in the afternoon and was given Rs. 24,000/- and he also requested for NEFT. The bank staff gave him loose cheque and transferred his amount to another as per his request. It is submitted that bank staff never treated the complainant like as he has stated in the complaint. It is endeavor of the staff of the bank to give best services, according to the situation, to their customers. It is submitted that there is no staff with the name "Mamata" in the branch of the bank. It may also be added that during the time to demonetization two lady staff were pregnant despite that they were working till late in the night to avoid inconvenience to the Customers. During the period of demonetization the bank staff was working till 11:00 PM as they were to prepare statement with regard to old notes exchanged and deposited.

5. वादी ने अपने ईमेल दिनांक 13.04.2018 द्वारा न्यायालय को सूचित किया कि वर्ष 2005 से आज तक उन्हें बैंक निरंतर परेशान कर रहा है। आज तक उन्हें बैंकिंग की सामान्य सुविधा (चेकबुक, एटीएम एवं आरटीजीएस) से भी वंचित रखा गया है। वह कभी बैंक के अधिकारी से बात करता है तो यह लोग अमानवीय रूप से बर्ताव करते हैं। दिनांक 28.11.2017 को बैंक ने एक पत्र निवास स्थान पर भेजा जिसमें उन्होंने बिल्कुल झूठा और निराधार मत रखा है, जिसका उनके पास खंडन करने का प्रमाण भी है।
6. दोनों पक्षों के दस्तावेजों के अवलोकन उपरान्त मामले में दिनांक 12.10.2018 के लिए एक व्यक्तिगत सुनवाई निर्धारित की गयी तथा मामले को उक्त दिनांक को यथावत सुना गया।
7. सुनवाई के दौरान वादी स्वयं प्रस्तुत होकर अपनी मूल शिकायत को दोहराया जबकि प्रतिवादी की तरफ से कोई प्रतिनिधि न्यायालय में उपस्थित नहीं हुए जिसे न्यायालय ने गंभीरता से लिया है।
8. भारतीय रिजर्व बैंक ने बैंको में ग्राहक सेवा से संबंधित अपने मास्टर परिपत्र संख्या DOD.No.DIR.BC.19/04.02.002/2014-15 दिनांक 01.07.2014 द्वारा दिनांक 30.06.2014 तक निर्गत निर्देशों को समेकित एवं नवीनीकृत किया है तथा बैंको को सलाह दी सभी बैंकिंग सुविधाएं जैसे कि चेकबुक सुविधा (तृतीय पक्ष के चेको सहित), एटीएम कार्ड सुविधा नेट बैंकिंग सुविधा, लोकर सुविधा, खुदरा ऋण सुविधा एवं क्रेडिट कार्ड सुविधा आदि बिना किसी भेदभाव के दिव्यांगजन (दृष्टि दिव्यांगों सहित) को प्रदान की जाएगी। मास्टर परिपत्र भारतीय रिजर्व बैंक की वेबसाइट ([www.rbi.org.in](http://www.rbi.org.in)) पर भी

उपलब्ध है। उक्त निर्देशों के आधार पर, भारतीय बैंक संघ ने भी समान दिशा-निर्देश जारी कर रखे हैं।

9. दोनों पक्षों को सुनने के बाद तथा भारतीय रिजर्व बैंक एवं भारतीय बैंक संघ के उपरोक्त दिशा-निर्देशों को देखते हुए प्रतिवादी बैंक को आदेश दिया जाता है कि सभी दिव्यांगजन (दृष्टि दिव्यांग व्यक्तियों सहित) एवं वादी श्री रामाधार वर्मा को सभी बैंकिंग सुविधाएं बिना किसी भेदभाव के समान ग्राहको के समान प्रदान करना सुनिश्चित की जाएं। बैंक को यह भी सलाह दी जाती है कि दिव्यांग ग्राहको के साथ लेन-देन करते समय संवेदनशील व्यवहार करें।

10. उपरोक्त आदेश के साथ 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

Case No: 9271/1022/2018

Dated : 08.11.2018

Dispatch No. ....

In the matter of :

Shri Jitendra Kumar Savita,  
415/18, Kalyani Devi,  
Civil Lines,  
Unnao,  
Birhana Road,  
Kanpur  
Uttar Pradesh.  
Email<jksavita 222@gmail.com>

.....Complainant

Versus

The Punjab National Bank,  
(Through the Chairman & Managing Director,  
7, Bhikhaji Cama Place,  
New Delhi – 110 068

.....Respondent

Date of Hearing : 07.08.2018

Present :

1. Complainant – Absent
2. Shri V. Srinivas, Dy. General Manager and Shri R. Ravi Kumar, Chief Manager – On behalf of Respondent.

### 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 regarding his transfer to any branch of Punjab National Bank in Faizabad where his family resides.

2. He submitted that he joined the Punjab National Bank on 21.05.2004 on compassionate ground as Clerk on death of his father and was posted at Branch Office Bikramjot Cantt, Basti District. He was then transferred to Faizabad in the year 2011 prior to his request transfer to Kanpur on 14.01.2012. He was then posted at BO: Birhana Road, Kanpur. Due to family problem, his family shifted to Faizabad in the year 2017. He also applied for transfer to Faizabad. He was then relieved by Kanpur Office on 07.12.2017 to join Faizabad. He joined the Circle Office Faizabad on 11.12.2017. Initially he was not given any posting and his services were utilized at Vikas Bhavan and Sahaval branches of the bank. He was then posted at

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Balrampur on 20.12.2017, which is about 110 Kms from Faizabad. He then gave a representation dated 22.12.2017 to his Bank Circle Office, Faizabad requesting for his posting in Faizabad city. He submitted that Circle Office Faizabad is having shortage of one Clerk as it is having 4 clerks against the sanctioned strength of 5 clerks. The Circle Office Faizabad also declined leave to him from 26.12.2017 to 03.01.2018 on health ground.

3. The matter was taken up with the Respondent under Section 75 of the Rights of Persons with Disabilities Act, 2016 vide letter dated 07.03.2018.

4. The Asstt. General Manager, Punjab National Bank vide his letter no. HRMD:Resv Cell:2018:NL dated 20.04.2018 submitted that Shri Jitendra Kumar Savita (124800) joined in BO Bikramjot in 2004 at Faizabad Circle and requested for his transfer to Kanpur / Lucknow Circle on the ground that his home town is Unnao, presently under Kanpur Circle. He got relieved from PNB Faizabad Circle and joined Kanpur Circle on 14.01.2012. He submitted that the Complainant joined at Circle Office, Faizabad on 11.12.2017 after been relieved from Kanpur Circle and his services were temporarily utilized at BO Vikas Bhawan Faizabad and BO Sohawal against leave of clerical employees pending his permanent posting. On 20.12.2017, his order for permanent posting at BO Balrampur was issued by Circle Office considering his disabilities as BO Balrampur is situated on ground floor and is a district head quarter place. Circle Office, Faizabad did not have any vacancy in Faizabad city. The Complainant in his representation has stated that due to certain family problems his family has shifted to Faizabad city. Upon enquiry by Circle Office Faizabad, it was observed that he has fabricated false document of his residence in Faizabad City. It was found that neither the complainant nor his family resides in Faizabad city. The Complainant proceeded on unauthorized leave just after his order was issued for BO Balrampur and he was insisting for his posting in Faizabad city only. He submitted that the disability of the Complainant has been considered by the Bank and he has been posted at a Branch which is situated on the ground floor with all the amenities available being a district Headquarter branch.

5. The Complainant vide his rejoinder dated 22.05.2018 submitted that the management cleverly avoided to accept that he was not being given posting in his home town at the time of initial appointment. He submitted that he was not posted at Unnao near to his residence in accordance with GOI guidelines. He submitted that there were plenty of vacancies in Faizabad Circle which had fallen vacant due to retirements, promotions death etc. He submitted that the records of BO Balrampur along with Attendance Register since his joining BO:Balrampur may be asked to be summoned for the purpose of investigation. The record itself shows that only on exceptional day, all clerks of the branch would be present. On other days clerks remain on leave and the work of the branch gets completed within prescribed working hours without providing the substitutes. The complainant has requested to accommodate him at any of the branches in Faizabad city.

6. After considering Respondent's reply dated 20.04.2018 and Complainant's rejoinder dated 22.05.2018, a personal hearing was scheduled on 07.08.2018.

7. Complainant vide his email dated 06.08.2018 has informed this Court that he could not get reservation in the train to attend the hearing on 07.08.2018 and the person with whom he was to accompany also fell ill.

8. The representatives of Respondent reiterated their submissions as submitted in their letter dated 30.07.2018.

9. Considering the disability of Complainant, Respondent was directed to consider the transfer of the Complainant to any branch in Faizabad city in the light of DoP&T guideline issued vide O.M. No. 36035/3/2013-Estt.(Res) dated 31.03.2014

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. 9532/1023/2018

Dated : 08.11.2018

Dispatch No.....

In the matter of :

Dr. Maulika N. Patel,  
62, Municipal Quarters,  
Opp. Jain Temple, B/H Vihar Cinema,  
Pratapnagar Road,  
Vadodara,  
Gujarat - 390 004

.....Complainant

**Versus**

The Principal,  
Smt. P. N. Doshi College of Arts College,  
B-303, Cama Lane,  
Ghatkopar West, Mumbai,  
Maharashtra 400086

.....Respondent

**Date of Hearings : 27.08.2018 and 01.08.2018**

**Present :**

1. Dr. Maulika N. Patel Complainant - Present
2. Ms. Astha Tyagi, Advocate, on behalf of Respondent.

### ORDER

The above named complainant, a person with 60% locomotor disability had filed a complaint dated 18.03.2018 under the Rights of Persons with Disabilities Act, 2016 against her termination from the post of Assistant Professor (Gujarati) and harassment by the College.

2. Dr. Maulika Patel, complainant submitted that she was working as Lecturer in Gujarati Literature in Smt. P. N. Doshi College of Arts College. She had passed UGC Net Examination and got Research Fellowship for her Ph.D work. She joined as a project Fellow for UGC DRS Project for two years. She presented her research papers at state level as well as national level seminars. Her father was a social worker. She completed her entire education on her own. She lost her father last year and she had to take care of her widow mother and other family members. She submitted that Smt. P.N. Dosh Women's Arts College, Ghatkoper is affiliated with Mumbai S.N.D.T. University and had notified for the post of Assistant Professor in Gujarati in August 2016. She applied and after interview, she was appointed to the post of Assistant Professor in Gujarati language as per University Grants Commission's guidelines. She joined on 23.09.2016 on full time post. Before joining this College, she was working on temporary post in a Govt. College in

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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 फाइल/केस संख्या अवश्य लिखें)

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

Gujarat. She left that job to join the permanent position. She further submitted that from September 2016 to 05.03.2018, she was not paid a single penny as salary to her. She had to face these months with great difficulty and could take only one meal a day because of not having enough money for her expenses. During the time of De-monetization in November 2016, she was compelled to take Rs. 1 lakh as advance money in case in old currency. Then she was paid Rs.30,000/-. Thus she got Rs.1,30,000/- as advance money. She even approached the Principal and the Director for getting justice, but with no result. She approached the SCD, Govt. of Maharashtra and Maharashtra Mahila Ayog, Commissioner for Human Rights etc and presented her case, but she did not get any relief. Her father is suffering from liver disease and was on Ventilator. In the January 2018, she was issued a termination letter by the Principal saying that she has an unauthorized appointment letter with her.

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 07.05.2018.

4. The Incharge Principal, Smt. P.N. Doshi Women's College of Art vide her letter no. C/2017-2018/01 dated 31.05.2018 submitted that the disability referred to by the Complainant is not a disability which was acquired during her services with their College. Therefore, the provisions of Section 20(4) of the RPD Act, 2016 does not apply. She submitted that the employment of the Complainant had nothing to do with her disability. The Complainant had responded to an advertisement published by their College in Indian Express and Loksatta issues dated 27.07.2016 inviting applications for the post of an Assistant Professor in Gujarati in open category (not under PH quota). After processing of the applications, the Complainant was called for an interview on 20.09.2016. The Complainant was offered employment in their College and she was appointed on 23.09.2016 on the basis of her credentials and interview. She was appointed under general category. After the interview and the acceptance by the Complainant of the job offered, the Complainant's papers along with that of three other Assistant Professors were submitted to the Office of the Joint Director, Deptt. of Higher Education, Govt. of Maharashtra on 23.09.2016 for approval. The Office of Joint Director of Higher Education, Govt. of Maharashtra did not grant approval to the appointment of the Complainant as the mandatory requirement for appointment of an Assistant Professor is minimum 10 students whereas there were only 6 students for the interview. She submitted that as the approval for the appointment of the Complainant by Joint Director, Deptt. of Higher Education, Govt. of Maharashtra had not been received during the academic year 2016-2017. The Complainant was verbally informed in the beginning of the academic year 2017-2018 that she may not get approval. The Office of the Joint Director, Dept. of Higher Education, Govt. of Maharashtra declined the appointment of the Complainant. Their College, therefore, terminated the service of the Complainant. As the Complainant's appointment

was pending approval, the Deptt. of Higher Education, Govt. of Maharashtra did not pass the amount that was to be paid as salary to the Complainant. In November 2016, the Complainant was paid out of the management's own resources. Rs. 1 Lakh was paid to the Complainant at her own request as she wanted an advance for finding accommodation. She submitted that since the number of students opting for higher education in Gujarati in the Suburb of Ghatkopar not being sufficient, the Deptt. of Higher Education, Govt. of Maharashtra did not approve the appointment of an Assistant Professor.

5. The Complainant vide her rejoinder dated 15.06.2018 submitted that the advertisement given by the College is for permanent post and without taking approval, she says, how can the College give notification regarding appointment of an Assistant Professor in their College. She had given a representation regarding her grievance to the Grievance Committee in writing because the University Authorities had not given her appointment. As per UGC norms, an Assistant Professor is supposed to take 16 lectures per week and not 20 lectures as stated by the Respondent in their reply. She took 24 lectures. The College did not pay her salary for two months. They gave her Rs. 1 Lakh in the form of old currency. After that for more than 12 months, they did not pay her a single paise. They converted their black money into white under the label of mercy. She further submitted that she want justice. She had worked almost for 18 months without any salary.

6. After considering Respondent's reply dated 31.05.2018 and Complainant's rejoinder dated 15.06.2018, a personal hearing was scheduled on 01.08.2018.

7. During the hearing the Complainant submitted that she is working as Professor of Gujarati Literature in Smt. P. N. Doshi College of Arts College in Mumbai. She had passed UGC Net Examination and got Research Fellowship for her Ph.D work. She joined as a project Fellow for UGC DRS Project for two years. She presented her research papers at state level as well as national level seminars. Her father was a social worker. She completed her entire education on her own. She lost her father last year and she had to take care of her widow mother and other family members. She submitted that Smt. P.N. Dosh Women's Arts College, Ghatkoper is affiliated with Mumbai S.N.D.T. University and it had notified an advertisement for the post of Assistant Professor in Gujarati in August 2016. She applied for the post. After interview, she was appointed to the post of Assistant Professor in Gujarati as per University Grants Commission's guidelines. She joined the College on 23.09.2016 on full time basis. Before joining this College, she was working on temporary post in a Govt. College in Gujarat. She left that job to join the permanent position. She further submitted that from September 2016 to 05.03.2018, she was not paid salary. She had to face those months with great difficulty and could take only one meal a day because of not having enough money for her expenses. During the time of De-monitization in

November 2016, she was compelled to take Rs. 1 lakh as advance money in old currency. Then she was paid Rs.30,000/- and Rs.1,30,000/- as advance money. She even approached the Principal and the Director for getting justice, but with no result. She approached the State Commissioner for Persons with Disabilities, Govt. of Maharashtra, Maharashtra Mahila Ayog and Commissioner for Human Rights etc. but she did not get any relief. Her father is suffering from liver disease and was on Ventilator. In the January 2018, she was issued a termination letter by the Principal saying that she has an unauthorized appointment letter with her. The Complainant submitted that the advertisement given by the College was for permanent post and without taking approval. She submitted that how can the College give notification regarding appointment of an Assistant Professor in their College that too without taking approval from the concerned officials. She had given a representation regarding her grievance to the Grievance Committee in writing because their University Authorities did not give her appointment. As per UGC norms, an Assistant Professor is supposed to take 16 lectures per week and not 20 lectures as stated by the Respondent in its reply. She took 24 lectures. The College did not pay her salary for two months. They gave her Rs. 1 Lakh in the form of old currency. After that for more than 12 months, they did not pay her any money. They converted their black money into white under the label of mercy. She further submitted that she want justice. She had worked almost for 18 months without any salary.

8. The Learned Counsel for the Respondent vide her written reply submitted that on 12.07.2016, on the request of the College, Department of Higher Education, Government of Maharashtra granted permission to fill up vacancies for the subject of Gujarati. The College after receiving permission from the Department of Higher Education issued advertisements inviting applications for appointment to the post of Assistant Professor for Gujarati. On 27.07.2016 the College issued advertisement. The advertisement was for filling up one vacancy of the post of Assistant Professor in Gujarati out of sanctioned two posts. On 20.09.2016 the Complainant was interviewed and selected on merits for appointment in the open category. On 21.09.2016, a letter of appointment was given to Dr. Maulika N. Patel clearly stipulating that the Complainant's appointment was subject to approval from SNDT Women's University as well as from Government Authorities. On 12.10.2016, the College submitted the papers relating to the appointment of the Complainant to the Department of Higher Education for approval. The SNDT Women's University approved the appointment of the Complainant on 09.01.2017. The approval clearly stated that the candidate was from the open category. The College was informed orally by the Department of Higher Education, Govt. of Maharashtra before the communication was actually sent to the Department. The Complainant was terminated on 17.01.2018 informing her that workload was not approved by the Department of Higher Education. The Complainant submitted a complaint

regarding her termination to the University on 01.03.2018. On 05.03.2018 the Department of Higher Education, Government of Maharashtra informed the College that the appointment of the Complainant does not fulfill the condition no.2, viz, the minimum required students and workload hence approval, for salary grant was declined. The College explained the situation to the University. The College has not received any communication thereafter from the University.

9. The Court directed the Respondent College to submit the salary slip for the total salary paid by the College to the Complainant alongwith substantial documents to this Court before the next date of hearing.

10. The hearing was adjourned to 27.08.2018 at 4 p.m.

11. During the hearing the Complainant submitted that she joined the College as Professor in Gujarati Literature on 23.09.2016 on the basis of advertisement. She submitted that she was not confirmed on the post and she was not also not paid the salary. She reiterated that in January 2018, she was issued a termination letter by the Principal. She discussed her grievance in detail with the Principal and the Joint Director and also gave a written complaint to the Vice Principal. She is now without a job and finding difficult to run the family.

12. The Learned Counsel for the Respondent reiterated the submissions made by her during the last hearing on 27.08.2018. She submitted a table mentioning the salary of Dr. Maulika N Patel w.e.f. 23.09.2016 as per UGC Scale from September 2016 to February 2018 mentioning that an advance of Rs.1,30,000/- was paid against her salary and the balance amount of Rs.9,26,965/- has to be paid to complainant by the College. It also mentioned that the complainant was relieved from her services w.e.f. 17.02.2018.

13. The Court directed the Respondent to pay all the dues to the Complainant till date and also the experience certificate of the Complainant during her tenure with the College within one month of date of issuance of this Order. Compliance report of the same may be issued to this Court within 30 days from receipt of this order.

14. This 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: 8986/1022/2017

R-12257

Dated : 08.11.2018

Dispatch No. ....

In the matter of :

Sur Capt Kishalay Roy,  
Regional Centre ECHS, Mumbai,  
C/o Fleet Mail Office (FMO),  
Mumbai – 400 001.  
Email<kishalayroy@hotmail.com>

.....Complainant

**Versus**

The Chief of Personnel Services (COPS),  
IHQ of Ministry of Defence (Navy),  
Sena Bhawan,  
New Delhi – 110 011

R-12258

.....Respondent

**Date of Hearing : 10.08.2018**

**Present :**

1. Surg Capt Kishalay Roy, Complainant – present
2. Surg Capt M. Kankumaran, Surg CMDE S.S. Khanuja and Surg Capt Samir Kapoor, present on behalf of Respondent

The above named complainant, a person with 80% locomotor disability had filed a complaint dated 12.12.2017 under the Rights of Persons with Disabilities Act, 2016 against his transfer to Karanja.

2. The Complainant submitted that he is at present working as Joint Director Health Services at the Regional Centre ECHS, Mumbai since 01.09.2016. His job gives him to work flexi-hours and also work from home. He has been twice recommended by his establishment for CNS Commendation. Presently he stays in Wadala on his own arrangement because of his only daughter's education. He further submitted that his transfer has come to a place called Karanja as a unit MO vide IHQ HOD (N) vide letter no. NA/0601/5166 dated 20.12.2017. This appointment needs a young and fit person for the unit, which has somehow been missed by their HQ at Delhi. His present unit has taken up with the Administrative Authorities for cancellation of his transfer and his retention in the present position. The new unit to which the complainant has been transferred does not need him since his disabilities will hamper the unit for functioning. His new posting is in Uran for which he will have to keep on travelling 45 minutes by boat which is extremely painful due to his disability. He has just less than 18 months of service left for superannuation in May 2019. Therefore, the complainant has requested to cancel his transfer order so that he can retire gracefully and peacefully.

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3. The matter was taken up with the Respondent under Section 75(1) of the Rights of Persons with Disabilities Act, 2016 vide letter dated 09.02.2018.

4. The Principal Director Medical Services (Personnel & Material), Integrated Headquarters of Ministry of Defence (Navy) vide letter no. MD/75399K/OPF dated 15.03.2018 has submitted that he is currently working as Joint Director Health Services, Regional Centre, ECHS, Mumbai since 01.09.2016. He is able to perform his duties to the best of his disabilities and his present appointment gives him opportunity for flexi-hours and work-from-home. He has been twice recommended by two Directors, Regional Centre ECHS, Mumbai on 22.03.2017 and 12.09.2017 for CNS commendation. The new unit to which he is being posted to does not want him since his disabilities will hamper the unit functioning. Moreover, the complainant stays at Wadala and not Karanja, it will be a big hindrance in the daily functioning of the unit. The Complainant's office at Uran, which is 45 min by boat from mainland, is now being shifted to the mainland opposite RBI due to his continuous efforts. The complainant's employability restrictions and percentage disability have been decided by a duly constituted Medical Board as per extant regulations. The Respondent submitted that the transfer will not require the officer to change his accommodation since he is not being posted out of Mumbai station and his requirement to stay in Mumbai as per his application for transfer on compassionate grounds will still be met. The Respondent submitted that the complainant on his own has admitted that he works 'flexi hours' and at times 'from home' which is against good order and discipline of the Armed Forces. He submitted that no appointment in the Armed Forces permits personnel to work in this manner since it is against all conventions, ethics, ethos, discipline and extant regulations of the Armed Forces. He submitted that the complainant will only have to conduct routine and administrative activities in the MI Room within his employability restrictions. He needs to perform sedentary duties only. The complainant is on compassionate ground posting to Mumbai as requested by him. The Officer's present transfer only involves shifting his place of work from ECHS (Mbi) to INS Tunir which are co-located at Karanja, Mumbai. The transfer does not involve change in place of posting since the Officer's 'place of posting' remains the same viz Mumbai. The officer is therefore being maintained in his 'choice of place of posting'. The Respondent submitted that a letter has been made to Sir JJ Group of Hospitals and Grant Govt Medical College, Mumbai requesting for certain clarifications with regard to the Disability Certificate issued by them. The Respondent submitted that the Complainant has been posted to INS Tunir after due deliberation, with due care and diligence, keeping in view his disabilities and employability restrictions.

5. The Court vide letters dated 27.03.2018 and 11.06.2018 to the Dean, Sir JJ Group of Hospitals and Grant Government Medical College requested their clarification/confirmation with respect to the Disability Certificate of Surg Capt Kishalay Roy.

6. The Complainant vide his rejoinder dated 18.04.2018 has submitted that since he belong to a medical category S3A2 by which he is not supposed to travel by board. In INS Tunir, he has to travel to office daily by Naval Boat which is 45 minutes-1 hours ride to Karanja. He submitted that his previous posting did not require daily travel by sea because the work could be done online and by travelling locally within the city. As most of the work is internet based and lines are generally down in Karanja, work had to be completed from home. He submitted that the matter of flexi-hours and work-from-home is again wrongly projected. Most of the time at INS Karanja, internet is down and his work mainly involves clearing bills online. To facilitate this, so that no hospital bills or any individual reimbursement is kept pending, he had been compelled to work from home to clear the backlog. He submitted that his dedication to his job at RCECHS and his skills related to the job there have been appreciated by his previous two initiating Officers-Directors RCECHS. He submitted that there is a definite change of status from Joint Director Health Services to PMO Tunir which is discriminatory and undignifying. He submitted that after putting 31 years of service, his present posting is a post held by officers with only 5-7 years of experience.

7. After considering Respondent's replies dated 06.03.2018, 15.03.2018 and Complainant's rejoinder dated 18.04.2018, a personal hearing was scheduled on 10.08.2018.

8. During the hearing the Complainant submitted that he is working as Joint Director Health Services at the Regional Centre ECHS, Mumbai since 01.09.2016. His new posting is in Uran for which he will have to keep on travelling 45 minutes by boat which is extremely painful due to his disability. He has just less than 08 months of service left for superannuation in May 2019. Presently he stays in Wadala on his own arrangement because of his only daughter's education. He has requested for his posting in South Mumbai which is only 10 minutes from his home.

9. The representatives of Respondent submitted that the complainant was transferred to Mumbai and then to INS Tunir, Mumbai. The Complainant's office at Uran, which is 45 min by boat from mainland, is now being shifted to the mainland opposite RBI. The Respondent submitted that the complainant on his own has admitted that he works 'flexi hours' and at times 'from home' which is against good order and discipline of the Armed Forces. They submitted that the complainant will only have to conduct routine and administrative activities in the MI Room within his employability restrictions. The complainant is on a compassionate ground posting to Mumbai as requested by him. The Respondent submitted that the Complainant has been posted to INS Tunir after due deliberation, with due care and diligence, keeping in view his disabilities and employability restrictions. The representatives of Respondent submitted that complainant should get his Disability Certificate made from Naval Hospital.

10. As per DoP&T O.M. No. 36035/3/2013-Estt.(Res) dated 31.03.2014 as far as possible, the persons with disabilities may be exempted from the rotational transfer policy/transfer and be allowed to continue in the same job, where they would have achieved the desired performance. Further, preference in place of posting at the time of transfer/promotion may be given to the persons with disabilities subject to the administrative constraints. To the extent feasible, they may be retained in the same job, where their services could be optimally utilized.

11. 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

Case No: 7859/1023/2017 भारत सरकार/Government of India

Dated : 08 .11.2018

Dispatch No. ....

In the matter of :

Shri Pardeep Kumar,  
H. No.1569, Pana Mamurpur,  
Narela,  
Delhi – 110 040  
Email : <pardeepkrishnasoul@gmail.com>

.....Complainant

#### Versus

The Chief Postmaster General,  
Delhi Circle,  
Meghdoot Bhawan,  
New Delhi – 110 001

.....Respondent

Date of Hearings : 12.09.2018

Present :

1. Shri Pardeep Kumar, Complainant - Present
2. Shri Anand Kumar Singh, SSPOS, Delhi North Division, Shri Satyawan Sharma, IPCPG and Shri Lokendra Mohan Sharma, OA, on behalf of Respondent.

#### ORDER

The above named complainant, a person suffering from 60% locomotor disability had filed a complaint dated 27.03.2017 under the Rights of Persons with Disabilities Act, 2016 against various issues such as discrepancies in his Service Book, not giving advance for purchase of KAFO, transfer and not providing barrier free environment etc.

2. The complaint submitted that he is appointed under PH category and is working with Department of Post since 01.12.2001. Presently he is working as Sub Post Master at Jahangirpuri D Block Post Office, Delhi. He submitted that a three and half month period of the applicant was marked/shown absent in the Service Book during the year 2009-2010. Neither he was paid the salary for this period nor calculated the length of service. After persuasion he was paid salary for five years in February 2015 amounting to Rs.82,000/- without any interest. His establishment has not calculated the period in length of his service due to which his first MACP date was affected that led to multiple financial loss. He further submitted that there are number of discrepancies in his service book due to the ignorance of few officials. An amount of Rs.2,50,000/- approx is being recovered by way of Rs.5000/- + other arrears every month without any prior notice / information or his consent. The period of Induction Training of the applicant round about three and half years has not been calculated in the length of service of the applicant. He got his

....2/-

disability assessed through proper channel at Pandit Dayal Upadhyaya Institute. The Institute has advised him to use a High-Tech KAFO (Caliper) which would cost him Rs.95,880/-. The complainant has submitted his case for advance reimbursement of KAFO with all requisite documents to his establishment, but there was no response to it. The complainant was sanctioned a partial amount of Rs. 4,114/- only out of Rs.9,514/-. The complainant further submitted that the postal department has no dedicated cell to promote the interest of persons with disabilities. His department has not even identified the seats for PwDs according to their abilities. He submitted that PwDs are not exempted from their rotational transfers. The ambience in the Deptt. of Posts is not disabled friendly.

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 22.09.2017.

4. The Asstt. Director (Staff & Legal), O/o Chief Postmaster General, Delhi Circle vide his letter no. Staff/DA-8/P.Kumar/2017 dated 10.04.2018 submitted that most of the issues relate to 'Service Matters'. He reiterated that as per the Complaint his claim for pre-induction Training period for 01.12.2001 to 15.12.2001, 14.01.2002 to 30.03.2002 and 01.04.2002 to 15.04.2002 has not been counted for financial benefits. However the above said period has been counted for the purpose of grant of increment to the official concerned as per endorsement made in the service book by Ambala GPO in the pursuance of DG Post Delhi letter no. 60-61/92-SPB-1 dated 02.09.2003. He reiterated that no orders have been found endorsed in the service book of the official to count the period of training prior to appointment dated, i.e. 16-04-2002 to be counted for ascertainment of length of service for any other purpose other than grant of increment. He submitted that as far as complainants' request for inclusion of EOL without M/C period (detailed below), study leave for preparation of IAS and DoP&T Order No. 16/2/2009-Estt.(Pay-I) is concerned, the said letter clearly stipulates that 'EOL granted to a Government Servant for pursuing higher technical and scientific studies without medical certificate shall be counted as qualifying service for grant of regular increment.

S.No	Period	Remarks
1.	17.06.2008 to 12.09.2008	Explicitly mentioned in SR-I study purpose
2.	19.01.2010 to 21.05.2010	Explicitly mentioned in SR-I study purpose
3.	14.06.2010 to 13.08.2010	Explicitly mentioned in SR-I study purpose

As the EOL for the above mentioned period were granted for preparation of Civil Services Exam and not for prosecuting higher technical and scientific studies, hence these period are not to be counted towards qualifying service. As regards grant of permission for purchase of (Rt) High-Tech KAFO (Caliper) System, they have submitted to the ADG (Medical) Dak Bhawan, New Delhi vide

letter dated 16.01.2017. The Respondent submitted that the official has already been paid with difference of Medical Bill to the tune of Rs.5397/- sanctioned vide Memo dated 02.02.2017. The concerned section of their Circle is taking necessary action to create accessible office premises for persons with disabilities. The Respondent submitted that the proposal for nomination of Grievance Redressal Officer at Circle, Regional and Divisional Levels is under process at the Ministry's level.

5. The Complainant vide his rejoinder dated 29.07.2018 submitted that concerned unit neither gave or issued any rectification letter nor salary for the period 17.05.2018 to 16.06.2018 or any benefits such as MACP etc to him. The Extra Ordinary Leave (EOL) was granted for preparation of Civil Services Exam and not for prosecuting higher technical and scientific studies, hence these period are not counted towards qualifying service. The EOL are granted on the basis of no work no pay whereas study leaves are paid leaves. Henceforth no comparison should be made between these leaves. He submitted that apart from this, any kind of study is in itself scientific and technical. If that study is not scientific then it is considered illogical whereas all kind of study is logical, scientific and technical. The DoP&T Order No. 16/2/2009-Estt.(Pay-I) GOI, Ministry of Personnel & Public Grievances & Pension, Dept. of Personnel and Training dated 02.07.2010 clearly stipulates that EOL granted to a government servant for pursuing higher studies without medical certificate shall be counted as qualifying service for grant of regular increment. He submitted that two years have passed since he had applied for Hi-Tech assistive device whereas the term and condition for providing KAFO were applicable only for two months since the assessment was done. The complainant submitted that he had submitted his application for exemption from rotational transfer while the complainant was at Nirankari Colony Post Office under the same unit but his establishment did not responded.

6. And whereas, after considering Respondent's replies dated 10.04.2018, 15.04.2018 and 03.07.2018 Complainant's rejoinder dated 29.07.2018 a personal hearing was scheduled on 12.09.2018

7. During the hearing on 12.09.18 the Complainant reiterated his earlier submissions and mentioned that :-

- (i) his three and half years was not calculated in the length of service of the applicant.
  - (ii) his request for advance of purchase of KAFO was not considered by his establishment.
  - (iii) his deptt. has not identified the seats for persons with disabilities.
  - (iv) persons with disabilities are not exempted from their rotational transfers by his establishment.
- He submitted that the working place is not disabled friendly.



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.: 9746/1141/2018

Dated 09.11.2018

In the matter of:

*R-12378*

Shri Ramu Debnath & 19 Others  
C/o Pratibandhi Punarwas Samiti,  
Abhay Nagar, Agartala – 799005  
Email – [subirdatta16@gmail.com](mailto:subirdatta16@gmail.com)

.... Complainant

**Versus**

The Director,  
National Institute of Open Schooling,  
A-24-25, Institutional Area,  
NH-24, Sector-62, Noida-201309  
District – Gautam Budh Nagar (U.P.)

*R-12379*

.... Respondent

Date of hearing: 31.10.2018

Present:

1. Shri Anil Kumar Singh, Sr. Executive Officer (Legal) for respondent
2. None appeared for complainant

### ORDER

The above named complainants, all Teachers with visual impairment in Government of Tripura filed a joint complaint dated 05.05.2018 under the Rights of Persons with Disabilities Act, 2016 [RPwD Act, 2016], regarding no supply of Special Brail Books of D.El.Ed Course conducted by National Institute of Open Schooling (NIOS) to the teachers;

2. The complainant submitted that they can express their knowledge to their Writer whatever they are listening in class and not more than they listen. So they are in a fix. Brail Book carry needful fulfillment of this course.

3. The matter was taken up with the respondent vide letter dated 14.06.2018 for submission of their comments. Since no reply received despite reminder dated 03.08.2018, the case was listed for hearing on 31.10.2018.

4. During the hearing on 31.10.2018, the representative of the respondent filed their reply dated 30.10.2018 and submitted that D.El.Ed. programme is offered entirely online. All learning materil is supplemented with Audios and Videos for the learners. NIOS provides the following facilities free of cost for all the teachers registered under this programme:

Page 1 of 2

- (1) All the content in text and Audio/Video lectures have been placed on SWAYAM MOOCs and can be accessed at <http://dled.nios.ac.in/mooc.html>
- (2) Telecast of high quality educational programmes on 24x7 basis using the GSAT-15 satellite everyday on SWAYAM PRABHA DTH VAGDA CHANNEL No.32 which can be accessed at <http://www.swayamprabha.gov.in> and on the SWAYAM Prabha Mobile App.
- (3) All learning material in pdf as well as audio/video can be downloaded and used offline through NIOS App NIOS\_DElEd freely available at Google Play Store.
- (4) Telecast of live radio counseling at 2.00 pm to 2.45 pm and 3.00 pm to 3.45 pm (Monday to Saturday).
- (5) Live 2 hours interactive sessions at 3-5 pm.

NIOS provides the facilities for all the untrained teachers registered under D.El.Ed. programme to learn through SWAYAM and to watch subject related videos. There is also a provision of using an amanuensis during the course of examination as per NIOS norms. Since D.El.Ed. programme is completely digital, there is no provision to provide printed study/learning material to learners registered under this programme.

5. In the lights of the reply filed by the respondent, no further intervention is required in the matter and 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.: 9940/1041/2018

Dated 09.11.2018

In the matter of:

Shri Prabhat Mishra,  
Email – [mprabhaat@gmail.com](mailto:mprabhaat@gmail.com)

.... Complainant

*Versus*

Staff Selection Commission,  
[Through: Secretary]  
Block No.12, CGO Complex,  
Lodhi Road, New Delhi-110003

.... Respondent

Date of hearing: 31.10.2018

Present:

1. Shri H.L. Prasad, Under Secretary; and Shri A.K. Dadhich, Under Secretary for respondent
2. None appeared for complainant

### ORDER

The above named complainant, a person with 100% visual impairment filed a complaint vide email dated 20.06.2018 under the Rights of Persons with Disabilities Act, 2016 [RPwD Act, 2016], regarding scribes provided by the examination centre are not proficient enough to read the question paper and not allowing own scribe to write CGL Examination (to be held in July 2018).

2. The complainant [Registration No. 64016574499] submitted that he was appearing in forthcoming CGL Examination conducted by SSC at the exam centre Allahabad and the exam date would most likely fall in the last week of July, 2018. His concern was that SSC denied to comply with the guidelines issued vide Office Memorandum No.16-110/2003-DD.III dated 26.02.2013 by Department of Disability Affairs with reference to the written exams. The scribes provided by the exam centre are not proficient enough to read and narrate the question paper, especially English section. Their poor reading skill hugely hampers the performance of the candidates. He requested that the Exam Centre should allow his own scribe, as specified in point IV of the said guidelines dated 26.02.2013.

3. The matter was taken up with the respondent vide this Court's letter dated 29.06.2018 for submission of their comments.

4. The respondent filed their reply dated 07.08.2018 and submitted that they do not allow the candidate to opt or bring his/her own scribe in the written test conducted by SSC. Instead, SSC provides its own scribe on the request of the candidate to ensure fair play, transparency and a level playing field for candidates in that category. SSC extends the facility of meeting with scribes to PH candidates one day before the examination. SSC was of the view that by allowing candidates to bring their own scribes, such candidates can misuse this facility which could adversely impact the transparency and integrity of the examination. It also has the potential to disrupt the level playing field for other candidates in this category, who accept the scribes provided by the Commission. It is also anticipated that the propensity for allegations/complaints of unfair practices could also be high.

5. Since issuance of the guidelines dated 26.02.2013 by MSJE, the SSC were not allowing the candidates to opt or bring his/her own scribe to write the examination. They were providing their own scribes.

6. The complainant in his rejoinder/email dated 09.08.2018 submitted that due to parochial concerns SSC denied to allow own scribe and are mere pretexts to gloss over its poor mechanism. SSC was not the only examining body supposed to follow these guidelines, Banks, Railways and other Institutions duly adhere to the guidelines issued by DEPWD.

7. In the meanwhile, by Department of Empowerment of Persons with Disabilities (DEPWD), in supersession of the Guidelines dated 26.02.2013, issued the **“Guidelines for conducting written examination for Persons with Benchmark Disabilities 2018”** vide Office Memorandum No.34-02/2015-DD-III dated 29.08.2018. Regarding the facility of Scribe/Reader/Lab Assistant, Para IV, V, VI and VII of the Guidelines dated 29.08.2018 provides as under:-

*IV. The facility of Scribe/Reader/Lab Assistant should be allowed to any person with benchmark disability as defined under section 2(r) of the RPwD Act, 2016 and has limitation in writing including that of speed if so desired by him/her.*

*In case of persons with benchmark disabilities in the category of blindness, locomotor disability (both arm affected-BA) and cerebral palsy, the facility of scribe/reader/lab assistant shall be given, if so desired by the person.*

*In case of other category of persons with benchmark disabilities, the provision of scribe/reader/lab assistant can be allowed on production of a certificate to the effect that the person concerned has physical limitation to write, and scribe is essential to write examination on his behalf, from the Chief Medical Officer/Civil Surgeon/ Medical Superintendent of a Government health care institution as per proforma at APPENDIX-I.*

V. 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 two days before the examination so that the candidates get a chance to check and verify whether the scribe is suitable or not.

VI. In case the examining body provides the scribe/reader/lab assistant, it shall be ensured that qualification of the scribe should not be more than the minimum qualification criteria of the examination. However, the qualification of the scribe/reader should always be matriculate or above.

In case the candidate is allowed to bring his own scribe, the qualification of the scribe should be one step below the qualification of the candidate taking examination. The persons with benchmark disabilities opting for own scribe/reader should submit details of the own scribe as per proforma at APPENDIX-II.

VII. 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. However, there can be only one scribe per subject.

8. In view of the facts mentioned in the preceding paragraphs, the case was listed for hearing on 31.10.2018 and Notice of Hearing dated 09.10.2018 was issued to the parties.

9. During the hearing on 31.10.2018, the representative of the respondent filed a letter dated 30.10.2018 addressed to this Court informing their decision in this matter that the eligible candidates with disabilities may be given discretion for opting own scribe or otherwise in accordance with Para-V and Para-VI of the latest guidelines dated 29.08.2018 subject to fulfillment of other conditions as laid down therein, with immediate effect.

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

वाद संख्या 6052/1033/2016

दिनांक

09.11.2018

श्री महेन्द्र प्रसाद गुप्ता  
10/9, योगमाया मन्दिर के पीछे  
वार्ड संख्या-1, मेहरौली, नई दिल्ली-110074

R-12381

--- प्रार्थी

बनाम

"मुस्कान"

मानसिक-मंद बच्चों के लिए आवासीय विद्यालय,  
(द्वारा - अध्यक्ष, मुस्कान)  
सेक्टर - बी, पॉकेट-2, बसन्तकुंज, दिल्ली - 110070

R-12381

C.E.O  
(National Trust)  
168 Bada Bazar Road  
Rajinder Nagar  
N.D. - 110060

सुनवाई की तिथि - 21.11.2017 और 16.04.2018

उपस्थित -

दिनांक 21.11.2017

- 1- श्री महेन्द्र प्रसाद गुप्ता, शिकायतकर्ता
- 2- श्रीमती नीरा चावला, निदेशक और श्रीमती आभा कर्ण, सहायक निदेशक प्रतिवादी पक्ष की ओर से

दिनांक 16.04.2018

- 1- श्री महेन्द्र प्रसाद गुप्ता, शिकायतकर्ता
- 2- श्रीमती सीमा चड्ढा, उप निदेशक; और श्रीमती आभा कर्ण, सहायक निदेशक प्रतिवादी पक्ष की ओर से
- 3- श्री यू. के. शुक्ला, सहायक विधिक सलाहकार, राष्ट्रीय न्यास

आदेश

प्रार्थी ने अपनी 22 वर्षीय पुत्री पूनम, जो कि मानसिक मंदता से ग्रस्त है, को प्रतिवादी के मुस्कान आवासीय विद्यालय डेरा गाँव में नामांकन कराने से सम्बन्धित इस न्यायालय में दिनांक 10.03.2016 को एक आवेदन पत्र प्रस्तुत किया था।

2. जिसके तहत उन्होंने बताया कि वे एक निर्धन व्यक्ति हैं और रेहड़ी पर रूमाल, जूराब बेचकर अपने बच्चों का पालन-पोषण कर रहे हैं। उनकी 22 वर्षीय पुत्री पूनम, पिछले चार वर्षों से मुस्कान कटबरिया सराय में पढ़ रही थी। परन्तु प्रार्थी के निवास स्थान मेहरौली से कटबरिया सराय अपनी पुत्री को विद्यालय भेजने के लिए तीन किलोमीटर पैदल आना-जाना पड़ता था क्योंकि विद्यालय से जो बस आती थी वह पी.टी.एस. मोड़ तक ही आती थी। अतः प्रार्थी ने मुस्कान आवासीय विद्यालय डेरा गाँव में नामांकन के लिए प्रतिवादी से लिखित आवेदन किया। प्रार्थी का यह भी कहना था कि मुस्कान आवासीय विद्यालय डेरा गाँव में नामांकन के लिए प्रतिवादी द्वारा अठारह लाख रुपये मांगा जा रहा था जिसे देने में वे असमर्थ थे। प्रार्थी ने मानसिक

मंदता से ग्रस्त अपनी पुत्री पूनम का नामांकन मुस्कान आवासीय विद्यालय डेरा गाँव में कराने का निवेदन किया।

3. निःशक्त व्यक्ति (समान अवसर, अधिकार संरक्षण और पूर्ण भागीदारी) अधिनियम, 1995 की धारा 59 के अन्तर्गत पत्र दिनांक 05.07.2016 के द्वारा इस मामले को प्रतिवादी के साथ उठाया गया।

4. प्रतिवादी ने अपना उत्तर दिनांक 19.07.2016 प्रस्तुत किया और सूचित किया कि प्रार्थी की पुत्री मुस्कान में 07.07.2012 से प्रशिक्षु है। प्रार्थी के परिवार द्वारा उनकी विशेष आवश्यकता पुत्री की देखभाल और उसके प्रति जिम्मेदारी की कमी के सम्बन्ध में प्रतिवादी ने अपना प्रेक्षण साझा करने के लिए व्यक्तिगत रूप से मिलने के लिए निवेदन किया। प्रतिवादी के अनुरोध पर विचारोंपरान्त दोनों पक्षकारों को दिनांक 20.09.2016 को 1130 बजे इस न्यायालय में उप मुख्य आयुक्त के समक्ष सम्बन्धित दस्तावेज के साथ उपस्थित होने के लिए निर्देश दिए गए।

5. दिनांक 20.09.2016 को आयोजित बैठक में इस मामले पर विद्यालय (मुस्कान) के अधिकारियों और प्रार्थी के साथ विस्तार से चर्चा हुई और वे "डे केयर सेन्टर" (Day Care Centre) में बच्चे को बनाए रखने के लिए सहमत हो गए तथा वे सभी नेशनल ट्रस्ट के "घरौदा योजना" में समायोजित करना चाहते थे। प्रार्थी को अपनी बच्ची के स्वास्थ्य, आरोग्य रहने, उसकी शिक्षा और स्कूल के साथ नियमित सम्पर्क बनाए रहने के बारे में विस्तृत परामर्श दिए गए। दोनों पक्ष बैठक में हुई वार्ता से संतुष्ट थे।

6. तदुपरान्त, दिनांक 20.09.2016 को सम्पन्न हुई बैठक का हवाला देते हुए प्रार्थी ने पुनः एक अभ्यावेदन दिनांक 19.05.2017 इस न्यायालय प्रस्तुत कर कहा कि जो सुविधाएँ पहले से दी जा रही थी वो भी प्रतिवादी द्वारा बन्द कर दी गई। दिनांक 15.05.2016 को पी.टी.एम. के दौरान डेरागाँव में प्रवेश हेतु प्रार्थी के निवेदन को प्राचार्या ने अस्वीकार कर दिया और कहा कि पी.टी.एस. तक की बस की सुविधा भी नहीं दी जाएगी। बिना पैसे दिए विद्यालय में नहीं रखा जाएगा क्योंकि सरकार खर्च के लिए उनको पैसे नहीं देती है। दिनांक 16.05.2016 को बस ड्राइवर ने कुमारी पूनम को बस में नहीं बैठाया, पूनम रोती हुई घर पहुँची। मुस्कान में बात करने पर निदेशक/प्रधानाचार्या ने बताया कि उन्होंने ट्रांसपोर्ट की सुविधा देने से मना किया था।

7. प्रार्थी के अभ्यावेदन दिनांक 19.05.2017 पर प्रतिवादी ने अपने उत्तर दिनांक 29.08.2017 के द्वारा सूचित किया कि सन् 2012 से कुमारी पूनम को निःशुल्क प्रशिक्षण और घर से विद्यालय आने-जाने के लिए निःशुल्क वाहन की सुविधा प्रदान की जा रही थी। सन् 2015 से लगातार बीमार रहने के कारण कुमारी पूनम मुस्कान से अक्सर अनुपस्थित रहने लगी। अनुपस्थित रहने के बारे में मुस्कान द्वारा लिखित रूप से पूछे जाने पर श्री गुप्ता ने लिखित में आश्वासन दिया कि वे कुमारी पूनम को नियमित मुस्कान भेजेंगे और दिए हुए कार्यक्रम का अनुसरण करेंगे परन्तु अनुपस्थित रहने में कोई परिवर्तन नहीं आया। सत्र 2016-17 में केवल 37% उपस्थिति थी जो कि कम से कम 70% होना चाहिए था। दिनांक 20.09.2017 को हुई बैठक में इस न्यायालय द्वारा दिए गए सुझाव के उपरान्त भी श्री गुप्ता द्वारा मुस्कान के मानदण्डों का पालन नहीं किया। सत्र 2017-18 में कुमारी पूनम 1 अप्रैल से 15 मई तक मुस्कान से अनुपस्थित रही और वाहन की सुविधा का उपयोग नहीं कर पाई। इस तरह प्रायोजकों के प्रति उत्तरदायी होने के कारण कुमारी पूनम को दी जाने वाली

वाहन की सुविधा मुस्कान द्वारा समाप्त कर दी गई; और पत्र दिनांक 16.05.2017 के द्वारा श्री गुप्ता को निम्नलिखित विषयों में सुधार की अपेक्षा के साथ सलाह दी गई कि वे कुमारी पूनम को मुस्कान भेजने की व्यवस्था स्वयं कर लें - 1. पूनम की मुस्कान में उपस्थिति 80% से कम न हों; 2. पूनम के शरीर व वस्त्रों की साफ सफाई का विशेष ध्यान रखें; 3. पूनम के लिए टिफिन में ताजा व पौष्टिक भोजन देंगे। 4. मुस्कान के शिक्षकों द्वारा दी गई सूचना और सलाह पर अमल करेंगे; और 5. पूनम के सामान्य स्वास्थ्य, विशेष रूप से स्त्री रोग सम्बन्धित स्वास्थ्य की नियमित जाँच व जरूरी इलाज करवाएँगे और जुलाई में डॉक्टर द्वारा दी गई रिपोर्ट को मुस्कान में जमा करेंगे। प्रतिवादी द्वारा यह भी कहा गया कि यदि इस बार भी पूनम से सम्बन्धित उपलिखित विषयों में आशाजनक सुधार नहीं देखा गया तो पूनम का प्रशिक्षण मुस्कान में रोकना पड़ेगा।

8. प्रतिवादी के उत्तर दिनांक 29.08.2017 के प्रत्युत्तर में में प्रार्थी का कहना था कि जबसे डेरा गाँव में नामांकन हेतु इस न्यायालय में अभ्यावेदन दिया तबसे पूनम के लिए मुस्कान में सारी समस्याएँ खड़ी हो गई। इसके पूर्व मुस्कान में पूनम का क्रियाकलाप ग्रुप में बहुत अच्छा था। उसे ग्रुप से निकालकर अलग कर दिया गया और सारा कार्य उसके स्वयं के उपर छोड़ दिया गया जिसके कारण उसे वही कार्य बोझ समझ में आने लगा, वह डर गई और मुस्कान जाने से कतराने लगी। प्रार्थी ने यह भी आरोप लगाया कि दिनांक 20.09.2016 को सरोजिनी हाउस में ही प्रतिवादी द्वारा धमकाया गया था कि बाद में बताएँगे। अब पूनम को दी जाने वाली सुविधाएँ जैसे चाय, नाश्ता, खाना, कपड़े सब बन्द कर दिए गए; पीटीएस तक की बस की सुविधा से भी वंचित कर दिया गया। डेरा गाँव में नामांकन के सम्बन्ध में, डेरा गाँव के प्राभारी के साथ दिनांक 06.07.2017 को बैठक में पूनम की छोटी पुत्री प्रीती और बेटा शंकर के साथ उपस्थित हुए। इंचार्ज महोदय ने उनलोगों से कहा कि क्या वे माँग कर खाना खाते हैं, माँग कर कपड़े पहनते हैं, यहाँ धर्मशाला है कि फ्री में खाना, कपड़ा और रहना मिलेगा, पूनम को दो वर्ष तक प्रवेश नहीं मिलेगा, अभी प्रवेश बन्द है और रूम खाली नहीं है। प्रतिवादी द्वारा यह भी कहना बताया गया कि बच्चे पर बीस हजार रूपये खर्च होते हैं, जहाँ शिकायत करने जाते हैं उन्हीं से माँग लें। प्रार्थी ने पुनः कहा कि रेहड़ी पर रुमाल-जुराब बेचकर किसी तरह दो शाम का खर्च जुटा पाता है, ऐसे में मंदबुद्धी लड़की का पालन-पोषण कैसे हो।

9. उपलिखित तथ्यों के आलोक में दिनांक 21.11.2017 को मामले में सुनवाई के लिए सुनिश्चित की गई।

10. दिनांक 21.11.2017 को सुनवाई के दौरान प्रार्थी ने पुनः अपनी शिकायत दोहराई और अपनी पुत्री पूनम का नामांकन मुस्कान आवासीय विद्यालय डेरा गाँव में करवाने का अनुरोध किया।

11. प्रतिवादी पक्ष की ओर से उपस्थित प्रतिनिधियों ने उनके द्वारा प्रस्तुत उत्तर पर कायम रहते हुए कहा कि प्रार्थी ने मुस्कान आवासीय विद्यालय डेरा गाँव में नामांकन सम्बन्धित कोई आवेदन-पत्र प्रस्तुत नहीं किया।

12. दोनों पक्षों को सुनने के पश्चात प्रतिवादी को सलाह दी गई कि कुमारी पूनम की तरह बीस (20) बच्चों का विवरण प्रस्तुत करें जिनको मुस्कान द्वारा आवासीय सुविधा प्रदान की जा रही है। आवासीय सुविधा देने सम्बन्धित सम्भावनाओं की जानकारी के लिए राष्ट्रीय न्यास को "घरौंदा"

योजना की एक प्रति भेजने और राष्ट्रीय न्यास की ओर से किसी सक्षम प्रतिनिधि को अगली सुनवाई के दौरान उपस्थित होने के निर्देश दिए गए।

13. प्रतिवादी ने पत्र दिनांक 17.01.2018 के द्वारा 20 व्यक्तियों का विवरण प्रस्तुत किया। विवरण के अनुसार व्यक्तियों की आयु 17.5 वर्ष से 61 वर्ष तक थी और डेरा गाँव में मुस्कान द्वारा आवासीय सुविधाएँ केवल 18 व्यक्तियों को प्रदान की जा रही हैं। शेष 02 व्यक्तियों को नामांकन हेतु प्रतीक्षा सूची में रखा होना दिखाया गया था इसलिए कि एमपीसीसी लीज की अवधि जून 2017 में समाप्त होने के बाद अब तक बढ़ाई नहीं गई है और धन के अभाव में भी।

14. इस मामले में अगली सुनवाई दिनांक 16.04.2018 को सुनिश्चित की गई।

15. दिनांक 16.04.2018 को सुनवाई दौरान राष्ट्रीय न्यास की ओर से उपस्थित प्रतिनिधि ने कहा कि एमपीसीसी लीज की अवधि बढ़ाने के लिए राष्ट्रीय न्यास द्वारा पिछले दो वर्षों से दिल्ली सरकार को आग्रह किया जा रहा है, परन्तु अभी तक इस मामले में कोई प्रगति सामने नहीं आई है। सन् 2015-16 में राष्ट्रीय न्यास द्वारा घरौंदा योजना का संशोधन किया गया। घरौंदा योजना का उद्देश्य ऑटिज्म, सेरेब्रल पॉलसी, मानसिक मंदता और एकाधिक बहुविलांगता से ग्रस्त व्यक्तियों को जीवन भर के लिए घर सुनिश्चित करना और देखरेख की न्यूनतम सेवाएँ प्रदान करना है ताकि दिव्यांग व्यक्ति स्वावलम्बी और स्वाभिमानपूर्ण जीवनयापन के लिए प्रोत्साहित हो सके। नई घरौंदा योजना के अनुसार घरौंदा केन्द्र के किसी एक बैच में अधिकतम 20 दिव्यांग व्यक्ति हो सकते हैं। किसी घरौंदा केन्द्र में क्षमता से केवल 30% अधिक यानी 26 व्यक्तियों तक के बैच की अनुमति दी जा सकती है। इसके बाद प्रवेश की अनुमति नहीं होगी। पंजीकृत संस्था को स्थापना लागत हेतु एक बार में 2,90,000/- रुपये तथा मासिक आवर्ती लागत हेतु प्रति दिव्यांग व्यक्ति प्रति माह 10,000/- रुपये प्रतिपूर्ति का प्रावधान है।

16. उपरोक्त तथ्यों तथा अभिलेखों के आधार पर प्रतिवादी को यह सलाह दी जाती है कि प्रार्थी की मानसिक मंद दिव्यांग पुत्री कुमारी पूनम को राष्ट्रीय न्यास की घरौंदा योजना के अन्तर्गत मुस्कान आवासीय विद्यालय डेरा गाँव में नियमानुसार प्रवेश देवें और देखरेख की सुविधा दी जाए। प्रार्थी प्रवेश सम्बन्धी औपचारिकताएँ पूरी करने के लिए प्रतिवादी और/अथवा राष्ट्रीय न्यास से सम्पर्क स्थापित करें।

17. मामले का तदनुसार निपटान किया जाता है।



(डॉ. कमलेश कुमार पाण्डेय)  
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प्रतिलिपि -

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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: 9432 / 1011 / 2018

दिनांक: 09.11.2018

श्री कुलदीप सिंह  
पुत्र-गजेन्द्र सिंह  
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R-12475

वादी नं: 01

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R-12476

वादी नं: 02

बनाम

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R-12477

प्रतिवादी

सुनवाई की तिथि : 04.10.2018 एवं 05.11.2018

उपस्थित :

- श्री कुलदीप सिंह - वादी
- श्री विजय चोपड़ा, अनुभाग अधिकारी

### आदेश

उपरोक्त शिकायतकर्ता श्री कुलदीप सिंह एवं श्री मनीष गुप्ता की रेलवे भर्ती बोर्ड के विज्ञापन संख्या सी.ई.एन. 01/2018 तथा सी.ई.एन. 02/2018 से संबंधित शिकायत - पत्र the Rights of Persons with Disabilities Act, 2016 के अन्तर्गत इस न्यायालय में प्रस्तुत किया।

2. प्रार्थी का अपनी शिकायत में कहना है कि रेलवे द्वारा जारी दो विज्ञापन संख्या सी.ई.एन. 01/2018 तथा सी.ई.एन. 02/2018 में तकनीशियन तथा ग्रुप डी में एक हाथ से (पीएच-ओ.एच.-ओ.ए.) विकलांगों हेतु पद ही समाप्त कर दिए गये हैं दोनों ही विज्ञापन में केवल पैरो (पीच-ओ.एच.-ओ.एल.) से विकलांगों के लिए पद ही मान्य किये गये हैं, जो कि पूरी तरह से एक हाथ से (पीच-ओ.एच.-ओ.ए.) विकलांगों का शोषण है, जबकि पूर्व के जारी विज्ञापन में एक हाथ से विकलांग अभ्यर्थी को ग्रुप डी के पदों पर मान्य किया जाता रहा है। प्रार्थी का आगे कहना है कि विज्ञापन संख्या सी.ई.एन. 02/2018 में अनिवार्य योग्यता आई.टी.आई. को हटाकर पुराने नियम से केवल दसवीं परीक्षा उत्तीर्ण को निर्धारित कर दिया गया है फिर एक हाथ से विकलांगों को क्यों मान्य नहीं किया जा रहा।

3. मामला the Rights of Persons with Disabilities Act, 2016 की धारा 75 के अन्तर्गत पत्र दिनांक 08.06.2018 द्वारा प्रतिवादी के साथ उठाया गया। परन्तु स्मरण पत्र दिनांक 26.07.2018 के बावजूद भी प्रतिवादी से कोई उत्तर प्राप्त नहीं हुआ इसलिए दिनांक 04.10.2018 को सुनवाई रखी गई। परन्तु प्रशासनिक कारणों से उक्त मामले में सुनवाई निश्चित तिथि को नहीं हो पायी इसलिए दिनांक 05.11.2018 को सुनिश्चित की गई।

4. In response, Director Estt. (N) II, Railway Board vide letter dated 16.10.2018 has submitted that earlier candidates having disability in category of OH (OA) were considered for the posts of Technician and erstwhile Group 'D' in accordance with the notification issued by Ministry of Social Justice & Empowerment vide notification No. 16 – 70/2004-DIII dated 18.01.2017, 15.03.2017 and 22.03.2017. However, the Ministry of Social Justice & Empowerment has issued revised notification vide their notification No. 16- 15/2010 – DIII dated 29.07.2013 and accordingly some posts which were previously eligible for OH (OA) have now been removed.

5. सुनवाई के दौरान, प्रार्थी तथा प्रतिवादी की ओर से उपस्थित प्रतिनिधि ने अपने-अपने लिखित कथनों को दोहराया।

6. प्रतिवादी को सुनने के बाद और दस्तावेजों को देखने के बाद यह केस खारिज किया जाता है चूंकि भारत सरकार के सामाजिक न्याय एवं अधिकारिता मंत्रालय के नोटिफिकेशन संख्या 16-70/2004-डी.डी.-।।। दिनांक 15.03.2007 के अनुसार तकनीशियन 'ए', 'बी', 'सी' एवं 'डी' का पद केवल एक पैर वाले दिव्यांगों के लिए ही चिन्हित 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: 9476/1014/2018

दिनांक: 09.11.2018

श्री बलराम सिंह

पुत्र — श्री चन्द्रपाल सिंह

ग्राम — नेजला ढकौली, पोस्ट — मालागढ़

जिला — बुलन्दशहर, उत्तर प्रदेश — 203001

R-12478

वादी

बनाम

रेलवे भर्ती बोर्ड

(द्वारा चेयरमैन)

जम्मू—श्रीनगर, रेलवे कॉलोनी

(पश्चिम), जम्मू — 180012

R-12479

प्रतिवादी

सुनवाई की तिथि : 03.10.2018 एवं 31.10.2018

प्रार्थी — श्री बलराम सिंह

प्रतिवादी — श्री वासुदेव, उप सचिव एवं श्री सतीस कुमार, वरिष्ठ गोपनीय सहायक

### आदेश

उपरोक्त शिकायतकर्ता श्री बलराम सिंह, 40 प्रतिशत दृष्टिबाधित ने रेलवे भर्ती बोर्ड, जम्मू द्वारा स्टैनोग्राफर के पद पर भर्ती से संबंधित शिकायत — पत्र दिव्यांगजन अधिकार अधिनियम, 2016 के अन्तर्गत इस न्यायालय में प्रस्तुत किया।

2. प्रार्थी का अपनी शिकायत में कहना है कि उन्होंने रेलवे भर्ती बोर्ड, जम्मू में स्टैनोग्राफर के पद पर आवेदन दिया था एवं दिनांक 29.06.2015 को लिखित परीक्षा उत्तीर्ण करने के बाद उन्होंने दिनांक 22.11.2016 को स्टैनोग्राफर स्केल टेस्ट दिया जिसमें प्रार्थी दिनांक 08.01.2018 को उत्तीर्ण पाया गया। प्रार्थी का आगे कहना है कि दिनांक 01.02.2018 को दस्तावेज सत्यापन के बाद उन्हें बताया गया कि उन्होंने अपने आवेदन पत्र में जन्म तिथि नहीं भरी थी जिसके कारण उनकी उम्मीदवारी खत्म कर दी।

3. मामला दिव्यांगजन अधिकार अधिनियम, 2016 की धारा 75 के अन्तर्गत पत्र दिनांक 21.05.2018 द्वारा प्रतिवादी के साथ उठाया गया।

4. जवाब में प्रतिवादी, उप सचिव, रेलवे भर्ती बोर्ड, जम्मू का अपने पत्र दिनांक 29.06.2018 का कहना था कि रेलवे बोर्ड, जम्मू—श्रीनगर, जम्मू द्वारा केंद्रीय रोजगार सूचना संख्या — 03/2014 दिनांक 11.10.2014 के तहत कोटि संख्या — 1, स्टैनोग्राफर/जूनियर स्टैनोग्राफर पे. बैंड 5200 — 20200 एण्ड ग्रेड पे 2400/— के लिए निम्न रिक्तियां प्रकाशित की गई थी:—

...2.....

Cat No.	Post	Rly.	U R	S C	S T	OB C	Total	Ex.S M	V H	O H	H H
1.	Steno (Hindi)	DMW	2	1	1	1	5	0	1	0	0
		RCF	0	0	1	0	1	0	0	0	0

उम्मीदवार ने केंद्रीय रोजगार सूचना संख्या 03/2014 दिनांक 11.10.2014 के तहत कोटि संख्या – 1, स्टेनोग्राफर/जूनियर स्टेनोग्राफर /जूनियर स्टेनोग्राफर के लिए एस. सी. कम्युनिटी के अंतर्गत वी.एच. (दृष्टिबाधित) कोटा के तहत आवेदन किया था। लिखित परीक्षा परिणाम के बाद, दिनांक 29.06.2015 को लिखित परीक्षा का परिणाम घोषित किया गया। जिसमें उम्मीदवार अस्थाई तौर पर दक्षता परीक्षा के लिए उत्तीर्ण पाया गया था लिखित परीक्षा परिणाम दिनांक 29.06.2015 के बाद दिनांक 22.11.2016 को उपरोक्त पद के लिए दक्षता परीक्षा का आयोजन किया गया तथा उम्मीदवार इस दक्षता परीक्षा में सम्मिलित हुआ। दिनांक 22.11.2016 को आयोजित दक्षता परीक्षा में कोई भी उम्मीदवार उत्तीर्ण नहीं पाया गया। परन्तु श्री बलराम सिंह को वी.एच. कोटा के तहत दस्तावेज सत्यापन हेतु अस्थाई तौर पर दिनांक 01.02.2018 को बुलाया गया। दस्तावेज सत्यापन के दौरान उम्मीदवार के आवेदन पत्र के कॉलम संख्या 07 में जन्म तिथि भरा हुआ नहीं पाया गया जो कि अनिवार्य था जैसा कि आवेदन पत्र के नीचे फुट नोट में स्पष्ट रूप से लिखा गया कि “the columns 1,2,4 to 15 & 17 are mandatory, non filling up of these columns will render your application totally invalid” विपक्षी का आगे कहना है कि केंद्रीय रोजगार सूचना संख्या 03/2014 दिनांक 11.10.2014 के पैरा संख्या 14.3 में यह स्पष्ट लिखा गया है कि रेलवे भर्ती बोर्ड को यह अधिकार है कि यदि आवेदन में किसी प्रकार की कमी नोटिस में आती है तो भर्ती प्रक्रिया के किसी भी अवस्था में उम्मीदवारी रद्द की जा सकती है।

5. Complainant vide Rejoinder dated 29.07.2018 has inter-alia submitted that he allowed to appear in written examination on 11.01.2015 and declared passed in the said written examination by virtue of outstanding performance and he further allowed to appear in written examination of “Stenography” on 22.11.2016 and further declared passed in the said written examination of “Stenography” by virtue of outstanding performance against single post of VH. After that he called for documents verification on 01.02.2018 and declared successful in verification of documents and all documents were found as per norms. Complainant further submitted that applicant inadvertently could not fill up the date of birth in Colum No. 07 which was not willful and intentional and he belongs to SC Physical Visual handicapped. His age was within prescribed limit as his date of birth was 01.04.1992. Complainant further submitted that he had submitted his application alongwith all the educational certificates, SC certificate and Physical handicapped certificate too. Thus, the so call direction to fill up the age could have been easily verified/checked by the RRB/Jammu at the time of scrutinize the application form in the year of 2014.

6. प्रतिवादी के पत्र एवं वादी के पत्र के मद्देनज़र, दिनांक 03.10.2018 को सुनवाई रखी गई परन्तु सुनवाई के दौरान दोनों पक्षों की ओर से कोई भी उपस्थित नहीं हुआ और न ही कोई सूचना प्राप्त हुई। जबकि सुनवाई का नोटिस दिनांक 24.09.2018 स्पीट पोस्ट से दोनों पक्षों को भेजा था। अगली सुनवाई दिनांक 31.10.2018 को सुनिश्चित कि गई जिसमें प्रार्थी एवं प्रतिवादी की ओर से उपस्थित प्रतिनिधि ने अपने-अपने लिखित कथनों को दोहराया।

7. दोनों पक्षों को सुनने के पश्चात् तथा दस्तावेजों के अध्ययन के बाद यह पाया गया कि प्रार्थी ने अपने आवेदन पत्र में अपनी जन्म तिथि गलती से नहीं भरी थी यदि रेलवे भर्ती बोर्ड, जम्मू को प्रार्थी का आवेदन खारिज करना था तो आरंभ में ही प्रार्थी का आवेदन अस्वीकार करना चाहिए था। प्रार्थी द्वारा कठिन परिश्रम के बाद, उन्होंने लिखित परीक्षा एवं अन्य परिक्षाएं सफल की तथा दस्तावेज सत्यापन हेतु दिनांक 01.02.2018 को बुलाकर यह कहना कि जन्म तिथि नहीं भरी होने के कारण उनकी उम्मीदवारी रद्दी की जाती है, उचित प्रतीत नहीं होता। प्रार्थी के अनुसार उन्होंने आवेदन के साथ अपने सभी दस्तावेज भेजे थे एवं दस्तावेज सत्यापन के समय सभी दस्तावेजों की पुष्टि की गई थी। रेलवे भर्ती बोर्ड, जम्मू को निर्देश दिया जाता है कि वह प्रार्थी की उम्मीदवारी पर विचार कर उनको नियुक्ति देते हुए उसकी रिपोर्ट 03 माह के भीतर भेजे।



(डॉ कमलेश कुमार पाण्डेय)  
मुख्य आयुक्त (दिव्यांगजन)



सत्यमेव जयते

Exd

## 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.: 9081/1031/2017

Dated 12.11.2018

In the matter of:

Dr. Mohammad Furkan,  
Pre-Doctoral Fellow (MANF-SRF),  
C/o Dr. Aabgeena Neem,  
Department of Biochemistry  
F/o Life Sciences, Aligarh Muslim University,  
Email – [furquan1989@gmail.com](mailto:furquan1989@gmail.com)

R-12389

.... Complainant

*Versus*

Science & Engineering Research Board,  
[Through: Director]  
5 & 5A, Lower Ground Floor,  
Vasant Square Mall Sector-B, Pocket-5,  
Vasant Kunj, New Delhi-110070

R-12384

.... Respondent

Date of hearing: 27.08.2018

Present:

1. Dr. Mohammad Furkan, complainant
2. Dr. Praveen Kumar.S, Scientist E and Advocate Manish Mohan, counsel for the respondent

### O R D E R

The above named complainant, a person with 50% locomotor disability filed a complaint vide email dated 16.12.2017 under the Rights of Persons with Disabilities Act, 2016 [RPwD Act, 2016], regarding no provision of reservation for persons with disabilities in selection of National Post Doctoral Fellowship (NPWF) for Life Sciences in Science & Engineering Research Board (SERB).

2. The complainant submitted that National Post Doctoral Fellowship for Life Sciences is given after Ph.D. for the tenure of 2 years and is generally called NPWF. In an RTI reply dated 08.12.2017 from SERB, there was no any reservation for students with disabilities. All the students who were selected are in general category and there are no any special criteria for picking them. He requested to look into the matter for providing reservation according to Government guidelines because students with disabilities are deprived from many services.

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

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

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

4. The matter was taken up with the respondent vide this Court's letter dated 09.01.2018 for submission of their comments.

5. The respondent filed their reply dated 02.02.2018 submitted that the mandate of SERB is to promote basic research in frontier areas of science and engineering and provide financial assistance to persons engaged in such research, academic institutions and research & development laboratories and other agencies. SERB serves as a National premier funding agency for planning, promoting and steering internationally competitive research in science & engineering. A regular faculty/researcher in an academic/research institution can seek research support to carry out his/her research. Section 32(1) of the RPWD Act, 2016 is applicable to Higher Educational Institutions funded by Government, whereas, SERB is itself a funding agency and not an educational institution. The research proposal is funded, if it has novelty and the investigator has the competence to execute the project. Funding decisions are made based on merit of the proposal, competence of the Investigator(s), and the infrastructure available in the implementing institution, within the allocated funds by Government of India. In view, the five per cent reservation for persons with disabilities is not applicable for SERB funded schemes. SERB is funding all the proposals within the allocated funds, subject to suitability of the research proposal.

6. The complainant in his rejoinder vide email dated 04.07.2018 submitted that SERB is a Central Government Body hence it must provide reservation to persons with disabilities in NPDF.

7. Upon considering the reply of respondent and rejoinder of complainant, it was decided to hold a personal hearing in the matter on 27.08.2018, vide Notice of Hearing dated 07.08.2018 .

8. In response to the Notice of Hearing dated 07.08.2018, the respondent vide letter dated 20.08.2018 further added to their previous reply that SERB-NPDF is based on the quality of proposed research work and academic excellence (i.e. innovativeness, practical relevance to the society, improving the existing knowledge etc.) of the independent applicant. As per the Section 32(1) of RPwD Act, 2016 only the Government institutions

of higher education and other higher educational institutions receiving aid from the Government, shall reserve not less than five per cent seats for persons with disabilities. Since SERB itself a funding agency and not an educational institution, the complainant cannot claim reservation under this category. Unlike other competitive exams, there are no common syllabi for this programme to compete with all other applicants. Individual candidates must establish themselves based on innovation, scientific and technical merit of the proposed research work and academic & research accomplishments of the applicant to qualify for the fellowship. Hence, the scope for reservation does not arise in this case as the candidates selection is entirely based on merit of his proposed research work and caliber of the candidate. As per Section 8(2) of SERB Act, 2018, the Board may, after examining the application and after making such enquiries or seeking such clarifications as it considered necessary, by order in writing, either sanction the financial assistance or refuse the same. Hence, no reservation is provided to any other category including SC/ST, OBC and women candidates in the research investigations.

9. During the hearing on 27.08.2018, the representatives of the respondent relied on the reply filed by the respondent.

10. After hearing the parties and the documents available on record, since SERB does not provide reservation to other categories, i.e. SC/ST, OBC and women candidates, not providing reservation for persons with disabilities seems to be justifiable in SERB-NPDF, as the reservation for persons with disabilities is given on horizontal basis. 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: 9487/1023/2018

Dated : 13.11.2018

Dispatch No. ....

In the matter of :

R-12393

Shri Anoop A.G.,  
20/225, Chenbakam,  
Placcode,  
Neyyoor P.O.,  
Kanyakumari District.,  
Tamil Nadu – 629 802

.....Complainant

Versus

State Bank of India,  
(Through the Chairman)  
State Bank Bhavan,  
Madame Cama Road,  
Nariman Point,  
Mumbai 400 021

R-12394

.....Respondent

Date of HearingS : 08.08.2018, 21.08.2018 and 01.10.2018

Present :

1. Prof. Anil K. Aneja, Vice President, AICB along with Shri Anoop. A.G., Complainant.
2. Shri B.R. Naidu, AGM (Law), State Bank of India, on behalf of Respondent.

### ORDER

The above named complainant, a person with 75% visual impairment had filed a complaint dated 11.01.2018 under the Rights of Persons with Disabilities Act, against the Branch Manager, of Simmakal Branch, Madurai, for relieving him from services without his knowledge;

2. The Complainant submitted that he joined State Bank of Travancore on 01.10.2009 as a Provisional Clerk. While in service, on 21.11.2013, the Deptt. of Ophthalmology, KKMCH, Kanyakumari identified him as a visually impaired person with 75% disability which he conveyed to the management of the Bank at that time itself. He submitted that he was not given a favourable posting on promotion on compassionate ground due to his disability. He was not accommodated in the post of Desk Officer at the Regional Office in Kanyakumari district, which is his native district but the same was filled by one Smt. N. Subhi Shalini who was transferred from eSBT Karaikudi branch in Tamil Nadu. Two candidates who were promoted along with him as Trainee Officers in June 2016 were accommodated in branches in Kanyakumari district but he was transferred to SBT, Madurai Main Branch. After merger of Associate Banks with SBI, he was given an Offer Letter

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सरोजिनी हाउस, 6, भगवान दास रोड, नई दिल्ली-110001; दूरभाष: 23386054, 23386154; टेलीफैक्स : 23386006

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

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

with Offer of Employment in SBI on the evening of 12.04.2017, i.e. the last date for exercising the option. Since his visual defect hindered him to read the option letter properly, he wrongly selected option 'C' in the offer of employment letter which later he came to know will cost his job. He was frequently sent for deputation in various branches of SBI. He was told on 04.07.2017 morning that he was relieved on 30.06.2017. He pleaded with his Controller to cancel his resignation as he is innocent and was unaware of his option exercised due to his visual impairment and he was misguided by his branch manager. He was relieved from services. He represented his senior management of the SBI Bank to revoke his relieving order and to reinstate him back in the service. He was told that 'there is no provision in the Voluntary Retirement Scheme (VRS)-2017 to withdraw the option after the stipulated date, i.e. 12.04.2017. He submitted that he was not eligible for VRS scheme 2017 at that time as the VRS was applicable only for those employees who have completed 20 years of service or have completed 55 years of age as on 28.02.2017.

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 04.06.2018.

4. And whereas, as no reply was received from the Respondent, a personal hearing was scheduled on 08.08.2018.

5. The representative of Complainant requested for another date of hearing as no one from the respondent side was present during the hearing.

6. The Respondent vide their email dated 08.08.2018 had requested for a new date of hearing due to unforeseen circumstances in the State on the sudden demise of former Chief Minister of Tamil Nadu, Dr. M. Karunanidhi. However, the Chief General Manager, State Bank of India, LHO, Chennai vide his letter no. HR:IR 1645 dated 01.08.2018 has submitted that the Complainant joined the service as Clerk at State Bank of Travancore, Thiruvanchoor Branch on 01.10.2009. He was later promoted to officer cadre and was posted as Assistant Manager Simmakal branch. He submitted that with effect from 01.04.2017, the State Bank of Travancore has been acquired by State Bank of India. After the merger of State Bank of Travancore with State Bank of India, the permanent and regular officers or employees of the Transferor Bank were given offer of employment in writing (the option letter) by the Transferee Bank and where an officer or other employee of the Transferor Bank does not exercise any option, within a period of fifteen days from the date of the option letter given for exercising the option, such officer or employee shall be deemed to have accepted to continue in the service of the Transferee Bank. There were three options given to the employees of associate banks to select. 'Option A' refers to acceptance of terms and conditions of employment in State Bank of India with terminal benefits of SBI. 'Option

B' was in related to acceptance of the offer of employment in State Bank of India with terminal benefits that of the associate bank, i.e. State Bank of Travancore. 'Option 'C' stipulated for option to reject the offer of employment in State Bank of India. The employees who chose 'Option C' would be discontinuing his service from the bank with terminal benefits of State Bank of Travancore. The offer letter was given to all employees of associate banks in advance and they have been provided sufficient time to exercise their option. In the present case the Officer has opted for discontinuing his service from the Bank and opted 'Option-C'. The allegations regarding wrong selection of the option, misguidance of the branch manager while exercising the option etc were not true. The offer letter provided to the employees clearly spelt out the options and the consequences thereof. Moreover, as the option was to be exercised by all employees of the associate bank, a circular was issued for guidance of the officers/employees with details of the terms and conditions under which the employment is offered to them. He submitted that having understood all consequences of the option and intentionally selecting 'Option-C' the allegation now raised by the complainant is not acceptable. Shri Anoop A.G. admitted in his letter dated 06.07.2017 addressed to the Regional Manager that he had selected 'Option-C'. However, it was said that unknowingly under the apprehension that he might lose his job because of the visual defect. The allegation regarding misguidance by the branch manager is also not true. He opted to discontinue his service after considering all pros and cons and having taken such decision at his own free will. The option exercised by the employee was put up to the appropriate authority by the branch manager and the appropriate authority gave the approval for his relieving with effect from 30.06.2017. The relieving letter had been communicated to the employee on 04.07.2017.

7. The next date of hearing was fixed on 21.08.2018 at 16:30 Hrs.

8. During the hearing the representative of Complainant submitted that his client Shri Anoop A.G. joined State Bank of Travancore on 01.10.2009 as a Provisional Clerk. While in service, on 21.11.2013, the Deptt. of Ophthalmology, KKMCH, Kanyakumari identified him as visually impaired person with 75% disability which his client conveyed to the management of the Bank immediately. His client was not given a favourable posting on promotion on compassionate ground due to his disability. Shri Anoop was not accommodated in the post of Desk Officer at the Regional Office in Kanyakumari District, which is his native district but the same post was filled by one Smt. N. Subhi Shalini who was transferred from SBT, Karaikudi Branch in Tamil Nadu. He submitted that two candidates who were promoted along with Shri Anoop as Trainee Officers were accommodated in branches in Kanyakumari district but Shri Anoop was transferred to SBI, Madurai Main Branch. After merger of Associate Bank with SBI, his client was given an offer letter with Offer of Employment in SBI in the evening of 12.04.2017, which was the last date for exercising the option.

Since his visual disability hindered him to read the option letter properly, his client wrongly selected option 'C' in the offer of employment letter which later he came to know would have cost his job. His client was frequently sent for deputation in various branches of SBI. The bank conveyed to his client on 04.07.2017 morning that he has been relieved of his duties on 30.06.2017. His client pleaded with the Controller of the bank to cancel his resignation because he was unaware of his option exercised by him as he was misguided by his Branch Manager. He made representations to the Senior Management of State Bank of India to revoke his relieving order and to reinstate him back in service, but he was told that there is no provision in the Voluntary Retirement Scheme (VRS)-2017 to withdraw the option after the stipulated date, i.e. 12.04.2017. His client told that he was not eligible for VRS Scheme 2017 at that time as the VRS Scheme was applicable only for those who had completed 20 years of service or have completed 55 years of ages as on 28.02.2017.

9. During the hearing the representatives of Respondent Bank submitted that all due procedures were taken and followed by their Bank before relieving Shri Anoop. Shri Anoop was not relieved forcefully as admitted by him in his complaint. The representatives of Bank requested the Court to give them one month time to plead the case.

10. The next date of hearing was fixed on 01.10.2018 at 14:30 Hrs.

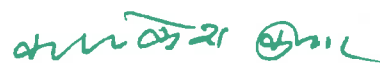
11. During the hearing the Learned Counsel for the complainant submitted that the representative of Respondent had given him some documents personally before the hearing. He submitted that after the merger of State Bank of Travancore with State Bank of India, the Complainant was given an option offer letter of employment in SBI in the evening of 12.04.2017, which was the last day of exercising the option. Since the complainant was visually impaired, he wrongly selected the option 'C' in the offer of employment letter, which is for discontinuing the service in the Bank which the complainant came to know afterwards. The complainant was told on 04.07.2017 morning that he was relieved of his services on 30.06.2017 and thus he was terminated from service without any fault of his client. The Learned Counsel for the complainant submitted that his client is innocent and the Respondent had taken disadvantage on the basis of disability of his client.

12. The Respondent vide their written submission dated 27.09.2018 submitted that the Complainant submitted a request for joining time leave from 03.12.2016 to 09.12.2016 to appear in Civil Service Main 2016. The Complainant submitted a letter dated 24.07.2015 informing that he has applied for Civil Services examination. During 2015 Shri Anoop. A.G. submitted letters to the

management of his bank informing that he had applied for various posts in different organizations and in the year 2014 also he had applied to various posts outside which he had informed to his bank. the post of Assistant in RBI. Shri A.G. Anoop submitted another letter dated 24.07.2015 informing that he has applied for the post of Assistant Provident Commissioner. He vide another letter dated 19.02.2015 informed that he has applied for the post of Assistant Manager (Group 'A') in NABARD. The Complainant submitted a letter dated 21.11.2014 informing the Respondent Bank that he has cleared the Preliminary Examination for Civil Services conducted by UPSC. The Respondent submitted that the complainant submitted a letter dated 09.08.2014 informing that he has applied for the post of Assistant in RBI. The representative of Respondent submitted that therefore the Complainant opted for terminating his service from the State Bank of India on his own after understanding the terms of the option letter dated 29.03.2017.

13. After hearing both the Complainant and Respondent, the Court felt that the Respondent should not have given the option 'C' in their offer letter of employment. Even if the Complainant had given his option 'C' in the Offer of letter of employment, the Respondent should have cross checked the option given by the Complainant as he is a visually impaired person. The Court directed the Respondent Bank to reinstate the Complainant along with his seniority and service benefits. The Court also specified that the Complainant is not allowed for claiming any benefit for back wages.

14. The Court directed the Respondent to give their compliance report to this Court within 30 days from the date of receipt of this Order.



**(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

Cash No. 7270/1101/2016

Dated: 14.11.2018

**In the matter of:**

Dr. Dinnu Gopal K  
dinnugopal@gmail.com

R-12907

-Complainant

**Versus**

Employees' State Insurance Corporation  
(through: the Director General)  
Panchdeep Bhawan  
Comrade Inderjeet Gupta(CIG) Marg  
New Delhi – 110 002

R-12906

-Respondent

**Date of Hearing : 09.10.2018**

**Present:**

None appeared on the behalf of the Complainant

Shri Deepak Malik, Dy. Director(MA) – On behalf of Respondent

### **ORDER**

The above named complainant filed a complaint dated 13.12.2016 to this Court regarding difficulties faced by him while performing his duties at casualty ward under the Persons with Disabilities(Equal Opportunities, Protection of Rights and Full Participation) Act, 1995.

2. The matter was taken up with the Respondent vide letter dated 27.12.2016 under Section 59 of the Act and followed by reminder dated 04.08.2017, 08.02.2018 and 01.05.2018.

3. Despite repeated reminders, no reply received from the side of Respondent, therefore a personal hearing in the matter was scheduled on 09.10.2018 vide Notice of Hearing dated 24.09.2018.

4. The case was accordingly heard on 09.10.2018.

5. None appeared from side of the Complainant during the hearing on the above said scheduled date.

6. However, Assistant Director, Employees' State Insurance Corporation vide letter no. A-14/14/Kerala/2009-SCT dated 08.10.2018 has informed that the comments of the concerned hospital authority has been received and are given as below:-

**Contents of complaint:-**

Dr. Dinnu Gopal K had represented his grievance and 3 others to the Court of Chief Commissioner for PwD, New Delhi. It was submitted that doctors with disabilities are posted, wherever it was clearly informed at the time of joining that they should be posted only in Non Surgical Departments. The hospital where they are working as a referral centre for almost 20+ ESI Dispensaries and also for 3 ESI Hospitals and has capacity of 170 in patients and 28 bed in ICU.

Sometimes the casualty get much crowded and they are not able to control the mob. In some case of serious ailments before referring them to referral hospitals patients need bed side management. In cases of road accidents and medicolegal cases brought like assault and suicide attempts which all require a physical strength, to stand for long time, to bend over the patients or to accompany the patients giving airway to the ICU. In such circumstances normal and healthy physically abled are afraid of and they avoid it at any cost. It is very difficult to obtain casual or even medical leaves. It is stated by the authorities that "Duty List is final. In case of inconvenience, adjustment to be made among themselves, strict action will be taken against officers not reporting for duty." The establishment and casualty were working with full staff, even before their appointment and there is no new transfer or resignation, inspite of that they are forced to do casualty duties. Relief has been sought as "they can work very well in the out patient department of all the departments in the hospital in ESIC Model Hospital, Asramam Kollam".

#### **ESIC's comments:-**

Shri Dinnu was appointed in the PwD Category and joined in ESIC Model Hospital, Asramam Kollam on 09.09.2016. As Hqrs. Instructions, such candidate was to be posted in non-surgical departments. In October, 2016 two of the PwD doctors were posted in the casualty. In Kollam hospital, casualty posting is given to five junior doctors in the ratio 3:2 where three doctors are posted in permanent post. He was not posted in Casualty in November and was posted again in Casualty in December on rotation basis as was done for other permanent Grade 2 IMOs. Dr. Dinnu was never posted in Casualty permanently. ESIC Model Hospital, Asramam, Kollam is referral hospital catering to nearly 950 Ops/day. In casualty the average attendance is less than 60/day which is less than 8% of total Ops and is spread over 3 shifts. Average IP attendance is 150 per day and is managed by ward duty Doctors. The 24 bedded ICU is managed by an outside agency under PPP model. It is true that the Casualty services with 6 observation beds and 8 inpatient beds are managed by Casualty duty Doctor, but the records during that period reveal that hardly any patient was admitted in casualty. The whole hospital emergency in other wards is managed by ward duty Doctors. There was shortage of Doctors at the time of joining of Dr. Dinnu. Out of 58 sanctioned posts there were only 12-13 doctors to be posted for duty. Though only five Doctors were posted in Casualty they were posted to take only four night duties while the remaining night duties were taken by all other duty taking Doctors in addition to their regular ward nights. Casualty services including examination of patients, diagnosis and initial treatment under the guidance of the concerned Specialists who are on call duty. There is a Security guard posted in the Casualty to control the mob in addition to other sufficient nursing personnel in all shifts and they work as a team. Serious patients are shifted to ICUs and have not been managed in Casualty which can be clarified from the hospital records. Medico legal cases and surgical care needing suturing are very rare. Major surgical cases are referred to other hospitals. Other IMO Grade II Doctors are also posted in Casualty and Casualty duty is not confined to the PwDs Doctors only. As per attendance register/roster, in October, Dr. Dinnu had taken 10 offs and in December he had taken 12 Offs. No Casual leave or medical leave has been denied to any Medical Officer. The clause that "Duty list is final in case of inconvenience, adjustment to be made among themselves. Strict action will be taken against officers not reporting for duty" was not intended for them as alleged. But it was, for all Medical Officers not to avoid responsibility and no last moment duty adjustment. This clause is prevalent even now in the duty rosters. Besides there were senior doctors who were taking casualty duty in case of inconvenience for any Doctors posted for casualty duty. Casualty duty was

given to all Medical Officers, Grade-II without any discrimination in addition to the Senior Residents as per the hospital rules. Out of the fifty eight sanctioned posts, there were twenty regular doctors of which thirteen were taking duties and they were doing the duties both in casualty and wards. There was a shortage of doctors at the time their joining duty. At this time, four PwD Doctors were posted in Kollam Hospital. Casualty can not be considered as a surgical treatment. Rule 1995 has not been violated. Disability of Dr. Dinnu does not require external support by way of person or appliances and every possible help has been extended to him and non handicapping environment has been given to him. The resting room and wash room are very near to casualty. During his posting there is no evidence that he had consulted any Specialist regarding his pain or suffering and there is no evidence of he was taking any medications. He has also not complained of any pain when taking night duties. The relief that the complainant claims has been given to him since there is no shortage of doctors now, as a team approach and cooperation is expected from them for the smooth functioning of the hospital.

7. Since there is no violation of any provision of the Act in the matter the case is disposed off. However, the Respondent may ensure that Employees/Officers with disabilities shall not be deprived of their legitimate rights guaranteed under the Act.



(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: 9756/1022/2018

Dated : 14.11.2018

Dispatch No. ....

In the matter of :

Shri Babu Singh,  
H-463, Gaur Cascades,  
Raj Nagar Extension,  
Ghaziabad  
Email<bs200809@rediffmail.com>

.....Complainant

Versus

Office of the Chief Commissioner,  
(Through the Chief Commissioner)  
Central GST Commissionerate, Ghaziabad,  
Mangal Pandey Nagar,  
(Opp. C.S. University)  
Meerut Zone,  
Meerut – 250 004 (U.P.)

.....Respondent

Date of Hearing : 17.10.2018

Present :

1. Shri Babu Singh, Complainant – Present
2. Dr. Shashank Yadav, Dy. Commissioner, Shri Anand Sharma, Superintendent and Shri Ashish Mahendra, Inspector, on behalf of Respondent – Present.

### ORDER

The above named complainant had filed a complaint dated 14.06.2018 under the Rights of Persons with Disabilities Act, 2016 regarding retaining him at Ghaziabad Station on the basis of treatment and rehabilitation of his son Shri Anup Singh, a person suffering from mental retardation and to waive off Rider as a punishment clause imposed on him.

2. The Complainant submitted that he is working as Superintendent, in CGST, Ghaziabad. A routine General Transfer & Posting has been issued by the Addl. Commissioner, CGST & Customs, Meerut Zone. He has been granted stay at Ghaziabad. His son Shri Anup Singh, aged 20 years is suffering from mental retardation along with acute seizure disorder and is fully dependent on him and his wife for his daily routine activities. He submitted that Rider for non-sensitive posting as punishment clause has been imposed on him and compelled him to leave the station and disrupt the caring / rehabilitation of his dependent son. He submitted that there appears no administrative constraints

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with regard to transfer of employees with disabilities or dependents suffering from disabilities as nearly 70 posts are available at CGST and Audit of Meerut Circles in Ghaziabad. He submitted that if he is transferred, his wife will suffer more as she has to handle the mentally retarded son alone. Sometimes, his son becomes very hostile and causes injury to his wife and himself. His wife got injuries many times. Therefore, the complainant submitted that he wants to remain at Ghaziabad. The complainant has requested for waiver of Rider as a punishment clause.

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 26.06.2018.

4. The Deputy Commissioner (CCO), Customs, Central Goods & Services Tax, Meerut Zone, Meerut vide his letter no. II(3)CCO/MRT/Admn./AGT-18/15/2018/2983 dated 09.07.2018 submitted that the allegations made by the Complainant are not correct and totally baseless. The Complainant had himself mentioned in his letter to this Court that he has been given stay at Ghaziabad although he had completed his normal tenure of six years at that station, as per the transfer & posting policy of Zone for posting of Group 'B' officers. He stated that the Complainant is not a person with disability but his son namely Shri Anup Singh is a PwD who is dependent on him. Considering this fact, the Complainant has not been transferred from his present place of posting, i.e. Ghaziabad on his own request. He further stated that as per the guidelines for postings of Group 'B' Officers, posting to a sensitive charge or non-sensitive charge (on rotation basis) is an internal policy matter of the department. The Complainant has been posted to a non-sensitive charge as per the policy for placing Group 'B' officer in sensitive/non-sensitive charge, but without changing his station where he is presently residing.

5. The Complainant vide his rejoinder dated 20.08.2018 has submitted that the stay has been granted at Ghaziabad but punishment clause (Rider/Restriction) for non-sensitive posting has been imposed. With this rider the authority (Commissioner, CGST, Ghaziabad) that is empowered to post in sensitive or non-sensitive posting. Despite the sensitive posting was due, as per Transfer & Posting Norms, the intension & spirit of the DoP&T Memorandum has been nullified. He requested this Court to advise the CGST & Customs, Meerut Zone, Meerut to incorporate the provisions in Transfer & Posting Policy norms and exempt government employees who has disabled child from the routine exercise of transfer/posting without any Rider/Restrictive clause. He submitted that the punishment rider of non-sensitive posting has been imposed in his case only in Order No.22/2018 dated 27.04.2018. The Restriction/Rider has been imposed upon to compel him to leave the station and it will be used till he remain posted at Ghaziabad ignoring the spirit and intension of DoP&T Office Memorandum.

6. After considering Respondent's reply dated 09.07.2018 and Complainant's rejoinder dated 20.08.2018, a personal hearing was scheduled on 17.10.2018 at 16:00 Hrs.

7. During the hearing the Complainant submitted that he is working as Superintendent, in CGST, Ghaziabad. His son Shri Anup Singh, aged 20 years is suffering from mental retardation along with acute seizure disorder. His son is fully dependent on himself and his wife. He submitted that Rider for non-sensitive posting as punishment clause has been imposed on him. He was compelled to leave the station which has caused disruption in caring and rehabilitation of his dependent son.

8. The Respondent vide their written comments dated 17.10.2018 submitted that the Complainant has not been transferred during the Annual General Transfer 2018 from his present station, i.e. Ghaziabad though he was due for it. This fact has also been admitted by the Complainant himself. But the subsequent posting within that station, i.e. Ghaziabad is an internal and administrative matter of the department and treating it a punishment by the Complainant is illegal and unjustified. The Complainant is presently posted as Superintendent, a Group B Gazetted Officer in Meerut Zone at Central Goods & Services Tax Commissionerate Ghaziabad since June 2016. As per the history of posting the Complainant is working in this Zone since February 2003 and during his posting in Meerut Zone of total 15 years, he had remained posted at Ghaziabad for 07 years and at Noida for 04 years, i.e. total 11 years at Station A (Noida and Ghaziabad) and remaining 04 years at Moradabad and other stations. In Meerut Zone, there is an established transfer and posting policy for Group B officers, for rotation of officers among the jurisdiction of Meerut Zone and consequent upon the formation of GST Commissionerates and jurisdictional reorganization of Customs Commissionerate, for the purpose of transfer and postings in Customs, Central Goods & Services Tax, Meerut Zone, four broad regions from among 12 Commissionerates has been formed. During the Annual General Transfer 2018 the Complainant, had completed his normal combined tenure of six years at Noida and Ghaziabad (Station A) and was due for posting at a station either in region C or D. The Complainant vide his letter dated 03.04.2018 had represented their office and requested to post him at Ghaziabad station on the ground to look after his son who is suffering from some serious mental disorders and need his assistant to take care of this routine activities. Considering the request of the Complainant, he was retained at Ghaziabad beyond his normal tenure and complied with the aforesaid O.M. dated 06.06.2014. But as per the policy, officers continuing after completion of their normal tenure at a particular region due to any reason are placed under non sensitive charge for a period of one year as they have been retained on their own request. Accordingly, the Complainant was retained at Ghaziabad station but with a rider for a non-sensitive charge during his stay period. The Respondent submitted that from the above it is clear that the Complainant has not been disturbed from his present station, i.e. Ghaziabad where he was posted earlier in the routine transfers of officers of Group 'B'.

The Respondent submitted that as per the guidelines for postings of Group 'B' officers, posting to a sensitive charge or non-sensitive charge (on rotation basis) is an internal policy and administrative matter of the department. They submitted that the complainant applied for posting at Special Economic Zone situated at Noida/Greater Noida vide his application dated 18.06.2018 after the Annual General Transfer 2018, which was duly forward by their office vide letter dated 18.07.2018 although it was not considered by the competent authority at NSEZ Noida, Ministry of Commerce. But it is very clear from the above fact the Complainant is ready to leave Ghaziabad if he is considered for such posting at a distant place. Hence they submitted that their establishment has totally complied with the directions of DoP&T OM. Dated 06.06.2014 and kept the Complainant at the same station, Ghaziabad but he fails to appreciate the contention of the department and raising an illegal and unjustified demand of posting him to a sensitive charge during his stay period.

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

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 सं० 6872/1022/2016

दिनांक: 18.11.2018

के मामले में:-

श्री श्याम सिंह राजपुरोहित

ssrpudr@gmail.com

R-12498

-वादी

बनाम

नेहरू युवा केन्द्र संगठन

(द्वारा : महानिदेशक)

कोर-4, द्वितीय तल

स्कोप मीनार, ट्वीन टॉवर कॉम्प्लेक्स

लक्ष्मी नगर जिला केन्द्र

दिल्ली-110092

R-12497

-प्रतिवादी

सुनवाई की तिथि: 12.10.2018

उपस्थित — श्री श्याम सिंह राजपुरोहित — स्वयं, वादी की तरफ से  
श्री आर. रामाचन्द्रन, अधिवक्ता — प्रतिवादी की तरफ से

### आदेश

श्री श्याम सिंह राजपुरोहित, पिता श्री सोमदेव, 100 प्रतिशत मंदबुद्धिता से ग्रसित दिव्यांग ने गांधीनगर से उदयपुर स्थानांतरण करवाने से संबंधित अभ्यावेदन दिनांक 18.08.2016 निःशक्त व्यक्ति(समान अवसर, अधिकार संरक्षण एवं पूर्ण भागीदारी) अधिनियम, 1995 जिसे इसके बाद अधिनियम कहा जाएगा, के अंतर्गत इस न्यायालय को प्रेषित किया ।

2. मामले को अधिनियम की धारा 59 के अंतर्गत पत्र दिनांक 09.09.2016 द्वारा प्रतिवादी के साथ उठाया गया । प्रतिवादी को स्मरण पत्र दिनांक 08.09.2017 भी भेजा गया ।

3. वादी ने अपने पत्र दिनांक 21.02.2018 द्वारा पुनः मामले में आवश्यक कार्यवाही करने हेतु न्यायालय से निवेदन किया कि उन्हें उदयपुर में पदस्थ किया जाए ।

4. मामले में प्रतिवादी से कोई जवाब प्राप्त नहीं होने के मद्देनजर एक व्यक्तिगत सुनवाई दिनांक 12.10.2018 के लिए निर्धारित की गयी ।

5. मामले को उपरोक्त निर्धारित तिथि को यथावत सुना गया ।

6. सुनवाई के दौरान वादी ने पत्र दिनांक 12.10.2018 न्यायालय के समक्ष प्रस्तुत कर निवेदन किया कि उनकी प्रार्थना पत्र पर इस न्यायालय के निर्देशों की पालना में उनका स्थानांतरण दिनांक 05.01.2018 से उपनिदेशक, नेहरू युवा केन्द्र संगठन, उदयपुर पद पर किया गया जिस पर उन्होंने नियमानुसार कार्यभार ग्रहण कर कार्य शुरू किया था परन्तु कुछ समय बाद ही पुनः दिनांक 02.02.2018 को उनका स्थानांतरण आदेश रद्द कर दिया गया । उक्त आदेश दिनांक 02.02.2018 को उन्होंने माननीय केट जोधपुर में ओए सं. 290-65-2018 द्वारा चैलेन्ज किया जिस पर माननीय केट द्वारा उनका पुनः आदेश दिनांक 02.02.2018 को स्टे कर विभाग को नोटिस जारी किया गया । नेहरू

युवा केन्द्र संगठन मुख्यालय द्वारा उनके समस्त रिकार्ड का अवलोकन करने पर उनकी वरिष्ठता व योग्यता को देखते हुए उन्हें पुनः दिनांक 06.04.2018 को जयपुर तैनात किया ।

7. वादी ने सुनवाई के दौरान यह भी उल्लेख किया कि वह वर्तमान में जयपुर में तैनात है, अतः उन्हें उक्त स्थान पर ही पदस्थ रहने दिया जाए, बार-बार स्थानांतरण नहीं किया जाए। वह अपने वर्तमान स्थान पर पदस्थापना से संतुष्ट है और उन्हें आगे मामले में कोई कार्यवाही नहीं चाहिए ।

8. कार्मिक एवं प्रशिक्षण विभाग के कार्यालय ज्ञापन सं. 42011/3/2014-स्था.(आरक्षण) दिनांक 06.06.2014 के अनुच्छेद 3 के अनुसार ऐसे सरकारी कर्मचारी जो एक विकलांग बच्चे के देखभालकर्ता के रूप में कार्य करते हैं, ऐसे सरकारी कर्मचारी के विस्थापन से विकलांग बच्चे के पुनर्वास पर असर पड़ेगा क्योंकि नया माहौल बच्चे के पुनर्वास की प्रक्रिया में बाधक साबित हो सकता है । अतः ऐसे सरकारी कर्मचारी को, जो एक विकलांग बच्चे का देखभालकर्ता है, नियमित स्थानांतरण प्रक्रिया अथवा आवर्तनशील स्थानांतरण से प्रशासनिक बाध्यताओं के अधीन छूट प्रदान की जानी चाहिए । “विकलांग” शब्द में शामिल है (i) दृष्टिबाधित अथवा अल्प दृष्टिबाधित (ii) श्रवणबाधित (iii) अस्थिबाधित अथवा सेरेब्रल पाल्सी (iv) कुष्ठ रोग (v) मानसिक मन्दता (vi) मानसिक बीमारी तथा (vii) बहु विकलांगता ।

9. दोनों पक्षों को सुनने के बाद प्रतिवादी को निर्देश दिया जाता है कि वादी के निरन्तर स्थानांतरण के अनुरोध पर विचार कर, जहां तक संभव हो सके उन्हें जयपुर अथवा उनके निवास स्थान के नजदीक पदस्थ करना सुनिश्चित किया जाए ताकि उनके पुत्र का मानसिक, शारीरिक तथा शैक्षिक विकास अग्रसर हो सकें ।

10. उपरोक्त निर्देश के साथ मामले को यहीं बन्द किया जाता है । तदनुसार दोनों पक्ष अवगत होवें ।



(डा. कमलेश कुमार पाण्डेय)  
मुख्य आयुक्त दिव्यांगजन



**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: 8539 / 1011 / 2017

दिनांक: 27.11.2018

श्री अमन चौधरी  
 ग्राम - नैली, पोस्ट - लारपुर  
 अम्बेडकरनगर, उत्तर प्रदेश - 224186

वादी

बनाम

भारतीय राष्ट्रीय राजमार्ग प्राधिकरण  
 (द्वारा महाप्रबंधक प्रशा./ 11)  
 जी - 5 एवं 6, सेक्टर-10, द्वारका  
 नई दिल्ली - 110075

प्रतिवादी

सुनवाई की तिथि : 02.07.18, 08.08.2018, 12.09.2018, 29.10.18 एवं 16.11.2018

उपस्थित :

- श्री ए. द्विवेदी, अधिवक्ता - वादी की ओर से
- श्री एम.एन.धई, उप महाप्रबंधक (प्रशासन) प्रतिवादी की ओर से

आदेश

उपरोक्त शिकायतकर्ता श्री अमन चौधरी की उप प्रबंधक (तकनीकी) के पद पर भर्ती से संबंधित शिकायत - पत्र the Rights of Persons with Disabilities Act, 2016 के अन्तर्गत इस न्यायालय में प्रस्तुत किया।

2. प्रार्थी का अपनी शिकायत में कहना है कि उन्होंने उप प्रबंधक (तक.) पद के लिए भारतीय राष्ट्रीय राजमार्ग प्राधिकरण में अगस्त 2016 में आवेदन किया था तथा मार्च 2017 में उक्त भर्ती निरस्त कर दी गई। प्रार्थी का आगे कहना है कि उन्हें आई.टी.आई. के माध्यम से मालूम चला कि कुल स्वीकृत पद 110, भर्ती पद - 48 एवं रिक्त पद 62 थे कुछ समय बाद यह भर्ती 40 पोस्ट गेट के माध्यम से आयी।

3. मामला the Rights of Persons with Disabilities Act, 2016 की धारा 75 के अन्तर्गत पत्र दिनांक 11.12.2018 द्वारा प्रतिवादी के साथ उठाया गया।

4. महाप्रबंधक (मा.सं./प्रशासन)- 11 बी, भारतीय राष्ट्रीय राजमार्ग प्राधिकरण का अपने पत्र दिनांक 09.03.2018 में कहना है कि उन्होंने जून 2016 में विकलांग व्यक्तियों (पीडब्लूडी) द्वारा उप प्रबंधक (तक.) के 04 पदों (02 एचएच + 02ओएच) को भरने के लिए विज्ञापन दिया था। बाद में, मई 2017 में आर आर के अनुसार वैध GATE SCORE

के माध्यम से सीधी भर्ती द्वारा, उप प्रबंधक (तक.) के 40 पदों (जिसमें 04 पद — पीडब्लूडी-ओएच-02, एचएच-02 के लिए आरक्षित थे) के लिए विज्ञापन दिया था जिसके लिए आवेदन करने की अंतिम तिथि 31.07.2017 थी और जून 2016 के विज्ञापन में प्रकाशित उप प्रबंधक (तक.) के 04 पदों को अध्यक्ष के अनुमोदन से परिपत्र दिनांक 08.06.2017 द्वारा रद्द कर दिया गया था। मई 2017 के उप प्रबंधक (तक.) पद के विज्ञापन के द्वारा, पीडब्लूडी श्रेणी (02-एचएच और 02 ओएच) के 04 आवेदक नियुक्त किए गए थे जिन्होंने भाराराप्रा में कार्यभार ग्रहण कर लिया है। प्रतिवादी का आगे कहना है कि प्रबंधक (तक.) के 40 पदों पर भर्ती प्रक्रिया हाल ही में सम्पन्न हुई है, जिसमें से 04 पद पीडब्लूडी (ओएच और 02 एचएच) के लिए आरक्षित थे, ओ.एच. श्रेणी से सिर्फ 01 आवेदक का चयन किया गया है और नियुक्ति पत्र जारी किया जा चुका है। पीडब्लूडी श्रेणी की 02 रिक्तियों को, आवेदकों की उपलब्धता न होने के कारण, नहीं भरा जा सका। चूंकि, प्रबंधक (तक.) के पद पर सीधी भर्ती समाप्त की दी हैं अतः सक्षम प्राधिकारी के अनुमोदन से पीडब्लूडी की 03 रिक्तियों को (01 — ओएच और 02 — एचएच), डीओपीएंडटी के कार्यालय ज्ञापन दिनांक 14.12.2012 के अनुपालन में भविष्य में उप प्रबंधक (तक.) के पद पर भर्ती करते समय शामिल करने का निर्णय लिया गया है।

5. प्रार्थी का अपने प्रति उत्तर में कहना है कि जब 2016 में भारतीय राष्ट्रीय राजमार्ग प्राधिकरण, नई दिल्ली ने भर्ती निकली थी तब उसमें वैद्य गेट स्कोर के माध्यम से सीधी भर्ती नहीं निकली थी जिसकी आखिरी तारीख 30.07.2016 थी प्रार्थी का आगे कहना है कि जब एडमिड कार्ड नहीं आया तब उन्होंने भारतीय राष्ट्रीय राजमार्ग प्राधिकरण को शिकायत कि तो इन्होंने बताया कि भर्ती रद्द कर दी है जब दोबारा दिनांक 02.07.2017 में भर्ती गेट स्कोर के माध्यम से निकाली जबकि गेट स्कोर से छूट मिलनी चाहिए थी।

6. प्रतिवादी के पत्र एवं वादी के पत्र के मद्देनज़र, दिनांक 02.07.2018 को सुनवाई रखी गई। सुनवाई दिनांक 02.07.2018 को वादी के अनुरोधानुसार अगली सुनवाई दिनांक 08.08.2018 को निर्धारित की गई। दिनांक 08.08.2018 को वादी के अधिवक्ता ने सुनवाई के दौरान बताया कि वादी ने हाल ही में उन्हें नियुक्त किया है तथा अनुरोध किया कि उन्हें मामला पेश करने के लिए 04 सप्ताह का समय दिया जाए। दिनांक 12.09.2018 को दोनों पक्षों को सुनने के पश्चात्, वादी को निर्देश दिया गया कि वह अपने गेट स्कोर कार्ड की प्रति भेजे तथा प्रतिवादी (1) विज्ञापन रद्द करने की प्रति (2) कितने आवेदन प्राप्त हुए (3) क्या विज्ञापन रद्द करने का नोटिस वेबसाइट पर अपलोड हुआ, अगर हुआ, तो उसकी प्रति (4) एवम् परिणाम की प्रति एवं चयनित उम्मीदवारों के गेट स्कोर कार्ड की प्रति अगली सुनवाई तक भेजे। अगली सुनवाई दिनांक 29.10.2018 को निर्धारित की गई। दिनांक 29.10.2018 को दोनों पक्षों को सुनने के पश्चात् और वादी की ओर से उपस्थित विद्वान अधिवक्ता के निवेदन पर विचार करते हुए, वादी को निर्देश दिया गया कि वे अपने गेट स्कोर कार्ड की प्रति प्रतिवादी एवं इस न्यायालय को एक सप्ताह के भीतर भेजे।

7. सुनवाई दिनांक 16.11.2018 के दौरान, वादी की ओर से उपस्थित अधिवक्ता ने कहा कि उनके पास गेट स्कोर कार्ड की प्रति नहीं है तथा सुनवाई के दौरान वादी उपस्थित नहीं थे। दोनों पक्षों को सुनने के बाद और दस्तावेजों को देखने के बाद यह केस खारिज 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

Case No: 8379/1023/2017

Dated : 28 .11.2018

Dispatch No. ....

In the matter of :

Shri Isaiah Tipayapalli,  
13-460, Sainathapuram,  
Mydukur Mandal & Post,  
Kadapa District,  
Andhra Pradesh – 516172.  
Email<tisaiah007@gmail.com>

.....Complainant

**Versus**

The National Bank for Agricultural and Rural Development,  
(Through the Chief General Manager)  
Karnataka Regional Office,  
No.46, Kampa Gowda Road,  
Bengaluru – 560 009

.....Respondent

**Date of Hearings : 07.08.2018, 11.09.2018 and 08.10.2018**

### Present on 07.08.2018

1. Shri Isaiah Tipayapalli, the Complainant along with his Learned Counsel Shri Vijay K. Bhosale, present.
2. Shri Akhilesh Srivastav, Shri Nalin K. Rai along with Shri R.P. Vats, Learned Counsel for Respondent, present.

### Present on 11.09.2018

1. Shri Isaiah Tipayapalli, the Complainant along with his Learned Counsel Shri Vijay K. Bhosale, present.
2. Shri Manas Shukla, Advocate along with Shri Chanchal K. Gautam, Manager, on behalf of Respondent, present.

### Present on 08.10.2018

1. Shri Isaiah Tipayapalli, the Complainant along with his Learned Counsel Shri Vijay K. Bhosale, present.
2. Shri Shah Usman, Advocate, Shri Samir Athaly and Shri Akhilesh Srivastav, on behalf of Respondent, present.

### ORDER

The above named complainant, a person with 80% visual impairment had filed a complaint dated July 2017 under the Rights of Persons with Disabilities Act, 2016 regarding his termination from service because of non proficiency in Kannada language and to reinstate him as Development Assistant, Group 'B' Staff in NABARD ;

2. The complainant submitted that he was appointed as Development Assistant (Group 'B') since 23.01.2017 at Bird Mangalore under SC and PH category. After his initial training at Mangalore, he joined the Karnataka Regional Office, NABARD. As per the Advertisement no. 01/DA/2016-17, Recruitment of Development Assistants dated 30.08.2016, the post of

....2/-

Development Assistant under VH category was available in Karnataka State and H.O. only. In the said Advertisement it stated that 'Candidates applying for the post in a particular state should be proficient in the language of the state, i.e. know to read, write, speak and understand the language. Candidate should also be able to write and speak English. Further in the appointment Order dated 30.06.2016 at condition xx) it states ' you will be required to pass the Pragya examination of the Gol. In the event of your failure to pass the above examination within such extended period, as NABARD may allow, further increment in the scale of pay admissible to you will be withheld until you pass the examination. The complainant submitted that he can understand the Kannada Language and execute his duties without difficulties. He submitted that the Karnataka RO's Group 'B' & 'C' Association and Kannada Sangha have mounted pressure on the karnataka Regional Office, KRO management to give emphasis to Kannada Language. He has been asked to furnish an explanation in connection with 'Proficiency in the Language of State'. The complainant requested KRO to provide him six months to one year time to attain the desired proficiency in Kannada language vide his letter dated 14.03.2017. On mounting pressure, KRO advised him to attend a test in Kannada Language on 21.03.2017. Immediately after the test, a termination letter was served to him vide NB, KRO/6139/(Rec-Group B)/2016-17 dated 22.03.2017. The complainant's contention is that he was appointed by NABARD after coming out successful in the written examination and interview and terminate him from services on failure to pass a test for which he was provided no time, amounts to discrimination and unfair. He requested KRO that in case of any difficulty in accommodating him in Karnataka, he could be transferred to Andhra Pradesh or Telangana Regional Office as he has proficiency in Telugu language. .

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 03.11.2017.

4. The General Manager, NABARD vide his letter no. NB:KA:HRMD:4082/Staff (Group-B) 2017-18 dated 08.12.2017 has stated that NABARD has conducted the recruitment of Group 'B' staff all over India. The Group 'B' staff is named Development Assistant in NABARD. As the recruitment was State-wise, the candidates were required to declare that they have the proficiency in the language of the State. The complainant joined the services of Development Assistant on 23.01.2017. As per para (1) (xix) and para 3, of offer of appointment letter no NB.HRMD.PA/4658/1 (BY)/2016-17 dated 30.12.2016, the offer of appointment was against his declaration that he is proficient in the language of the State ( i.e. can read, write, speak and understand Kannada). It was specifically mentioned in the said appointment letter that if his above declaration apart from any declaration,

statement or information given by him at any time found to be false or untrue or if any matter in particular is suppressed, his services in NABARD will be liable to be terminated forthwith without any notice or compensation in lieu thereof. They submitted that the Complainant was not proficient in Kannada language. Therefore, they vide letter dated 07.03.2017, sought for explanation for incorrect declaration/information furnished regarding proficiency in the language of the State from the Appellant. Though the Complainant had replied to the above letter vide his reply dated 14.03.2017, no documentary proof was furnished by him to prove his limited knowledge of Kannada. Not satisfied with his reply, a proficiency test was conducted and it was found that he was not capable of reading, writing and understanding the local language, i.e. Kannada was found to be false. The Competent Authority vide Order dated 22.03.2017 terminated the services of the Complainant. The Respondent submitted that the eligibility criteria fixed by NABARD at the time of recruitment, proficiency in the language of the State was prerequisite for applying for the post and hence no time can be given to the candidate to attain the proficiency of the language, i.e. Kannada. He submitted that the termination of Shri Isaiah Tippyapalli was not on the basis of his disability.

5. The complainant vide his rejoinder dated 05.03.2018 submitted that the NABARD management issued the notice for recruitment of Development Assistants/Development Assistant (Hindi) vide advertisement no. 01/DA/2016-2017. The Advertisement indicated state wise availability of the vacancies. The complainant was visually disabled in terms of parameters fixed by the bank and therefore he filled the form and made the payment of fee for the same. The applicant belongs to SC category and the post advertisement for visually handicapped person was available in the state of Karnataka. For appearing in the examination, the complainant being a visually impaired person took the help of scribe for submitting the examination form online. The management of NABARD vide its letter no. NB.HRMB.PA/4658/1(BY)1/2016-2017 dated 30.12.2016 issued appointment letter to the complainant indicating the various terms and conditions of appointment. The complainant was posted at RO Bengaluru in Karnataka. The complainant joined on 23.01.2017. The Bengaluru office of NABARD issued him a letter no. NB/KRO/5787/(Rec-Group B)/2016-17 dated 07.03.2017 stating that he is not proficient in the language of Karnataka, i.e. Kannada and he has furnished false and incorrect information. The NABARD office also called for an explanation from him and asked the complainant for documentary evidences indicating the complainant's proficiency in Kannada language. He was advised to appear for the test of proficiency (Read, Speak and Write) in Kannada language on 22.03.2017 in NABARD Regional Office in Bengaluru. The NABARD Regional Office issued him a termination letter on 22.03.2017 allegedly for not showing proficiency in the Kannada

language. The complainant submitted that issue of proficiency in language was raised by the individuals from outside having local social and political connections. The complainant made a mercy petition to the Chairman, NABARD, Mumbai vide letter dated 04.04.2017. The complainant filed the complaints to the State Commissioner for Persons with Disabilities, Govt. of Karnataka for getting justice before approaching the Chief Commissioner for Persons with Disabilities. He submitted that as he is having 80% visually impaired person, he had taken the help of a scribe for submitting online application in NABARD. Hence there may have been act of Omission or Commission on the part of the Scribe/writer in filling up the clause in online application. .

6. After considering Respondent's replies dated 21.09.2017, 08.12.2017, 08.06.2018 and Complainant's rejoinder dated 05.03.2018, a personal hearing was scheduled on 07.08.2018.

7. During the hearing the Learned Counsel for the Complainant submitted that NABARD management had released an advertisement no. 01/DA/2016-2017 for recruitment of Development Assistants/Development Assistant (Hindi). The Advertisement indicated state wise availability of the vacancies. The Complainant was visually disabled in terms of parameters fixed by the bank and therefore he filled the form and made the payment of fee for the same. The applicant belongs to SC category and the post advertisement for visually handicapped person was available in the State of Karnataka. For appearing in the examination, the complainant being a visually impaired person took the help of scribe for submitting the examination form online. The management of NABARD vide its letter no. NB.HRMB.PA/4658/1(BY)1/2016-2017 dated 30.12.2016 had issued appointment letter to the Complainant indicating the various terms and conditions of appointment. The Complainant was posted at RO Bengaluru in Karnataka. The Complainant joined NABARD on 23.01.2017. The Bengaluru office of NABARD issued him a letter no. NB/KRO/5787/(Rec-Group B)/2016-17 dated 07.03.2017 stating that he is not proficient in the language of Karnataka, i.e. Kannada and he has furnished false and incorrect information. The NABARD office also called for an explanation from him and asked the Complainant for documentary evidences indicating the Complainant's proficiency in Kannada language. He was advised to appear for the test of proficiency (Read, Speak and Write) in Kannada language on 22.03.2017 in NABARD Regional Office in Bengaluru. The NABARD Regional Office issued him a termination letter on 22.03.2017 allegedly for not showing proficiency in the Kannada language. The Complainant submitted that issue of proficiency in language was raised by the individuals from outside having local social and political connections. The Complainant made a mercy petition to the Chairman, NABARD, Mumbai vide letter dated 04.04.2017. The Complainant filed the complaints to

the State Commissioner for Persons with Disabilities, Govt. of Karnataka for getting justice before approaching the Chief Commissioner for Persons with Disabilities. He submitted that as Shri Isaiah Tippayapalli is person with 80% visual impairment, Shri Tippayapalli had taken the help of a scribe for submitting online application in NABARD. Hence there may have been act of Omission or Commission on the part of the Scribe/writer in filling up the clause in online application. The Complainant was not given a chance to learn and to become proficient in Kannada language. He requested this Court to set aside the termination letter issued by NABARD management on 22.12.2017 and to direct the management of NABARD to reinstate Shri Tippayapalli in the services.

8. During the hearing the Learned Counsel for Respondent submitted that the initial Complaint and the rejoinder of the Complainant are contradictory. It is clearly written in the advertisement that the applicant should be proficient in the regional language, i.e. Kannada. As the recruitment was State-wise, the candidates were required to declare that they have the proficiency in the language of the State. The applicant should be proficient in the local language for interaction with the local people. The complainant joined the services of Development Assistant on 23.01.2017. As per para (1) (xix) and para 3, of offer of appointment letter no NB.HRMD.PA/4658/1 (BY)/2016-17 dated 30.12.2016, the offer of appointment was against his declaration that he is proficient in the language of the State ( i.e. can read, write, speak and understand Kannada). It was specifically mentioned in the said appointment letter that if his above declaration apart from any declaration, statement or information given by him at any time found to be false or untrue or if any matter in particular is suppressed, his services in NABARD will be liable to be terminated forthwith without any notice or compensation in lieu thereof. The Respondent submitted that the Complainant was not proficient in Kannada language. Therefore, they vide letter dated 07.03.2017, sought for explanation for incorrect declaration / information furnished regarding proficiency in the language of the State from the Appellant. Though the Complainant had replied to the above letter vide his reply dated 14.03.2017, no documentary proof was furnished by him to prove his limited knowledge of Kannada. Not satisfied with his reply by Respondent, a proficiency test was conducted and it was found that he was not capable of reading, writing and understanding the local language, i.e. Kannada was found to be false. The Competent Authority vide Order dated 22.03.2017 accordingly terminated the services of the Complainant. The Learned Counsel for Respondent submitted that the eligibility criteria fixed by NABARD at the time of recruitment, proficiency in the language of the State was prerequisite for applying for the post and hence no time can be given to the candidate to attain the proficiency of the language, i.e. Kannada. The termination of Shri Isaiah Tippyapalli was not on the basis of his disability.

9. After hearing both the Complainant and the Respondent, the Court directed the Respondent to submit the following documents well before the next date of hearing.

- 1) Copy of the appointment letter issued to the Complainant.
- 2) Copy of the Complaint given by the Employees Association.
- 3) Copy of Roster maintained for employees with disabilities both regional wise and national wise basis since 01.01.1996 duly signed by the Liaison Officer.

10. The next date of hearing was scheduled on 11.09.2018 at 12 noon.

11. During the hearing the Representatives of Respondent submitted the following documents as directed by this Court vide Record of Proceedings dated 16.08.2018. A copy of each document was also handed over to the Learned Counsel for the Complainant by the representatives of Respondent.

- 4) Copy of the appointment letter issued to the Complainant.
- 5) Copy of the Complaint given by the Employees Association.
- 6) Copy of Roster maintained for employees with disabilities both regional wise and national wise basis since 01.01.1996 duly signed by the Liaison Officer.

12. The Learned Counsel for the Complainant submitted the following documents to the Court vide his letter dated 11.09.2018, a copy of which was also handed over to the Learned Counsel for the Respondent by the Counsel of Complainant.

1. NABARD Staff Rules 1982
2. Amnesty Scheme Circular No. 1442 dated 02.01.1989.
3. Medical Board Certificate for the Blind.
4. List of the few Group-B employees recruited by NABARD and posted to Centre other than their domicile state and then transferred back to their original state.

13. The next date of hearing was scheduled on 08.10.2018.

14. During the hearing the Complainant reiterated that his client Shri Issaiah Tippayapalli was advised to appear for the test of proficiency (Read, Speak and Write) in Kannada language. The NABARD Regional Office issued him a termination letter on 22.03.2017 allegedly for not showing proficiency in the Kannada language. The Complainant

submitted that issue of proficiency in language was raised by the individuals from outside having local social and political connections. He submitted that as Shri Issaiah Tippayapalli, being a person with 80% visual impairment, he took the help of a scribe for submitting online application in NABARD. The Complainant was not given a chance to learn and to become proficient in Kannada language. The Learned Counsel for the Complainant requested this Court to set aside the termination letter issued by NABARD and to direct the management of NABARD to reinstate Shri Tippayapalli in the service”.

15. The representatives of Respondent during the hearing submitted that as the recruitment was State-wise, the candidates were required to declare that they have the proficiency in the language of the State. They submitted that the Complainant was not proficient in Kannada language. A proficiency test for Kannada language was conducted and it was found that he was not capable of reading, writing and understanding the local language, i.e. Kannada. Therefore, the Competent Authority vide Order dated 22.03.2017 terminated the services of the Complainant. The Respondent submitted that the eligibility criteria fixed by NABARD at the time of recruitment, proficiency in the language of the State was prerequisite for applying for the post and hence no time can be given to the candidate to attain the proficiency of the language, i.e. Kannada.

16. Since Shri Issaiah Tippayapalli has been working in the post of Development Assistant, a clerical post, the Court observed that proficiency in local language, i.e. Kannada should not have been made mandatory for discharging his job. The Respondent is directed to reinstate the services of Shri Issaiah Tippayapalli in the post of Development Assistant in NABARD with immediate effect. The compliance report shall be submitted to the Court within 60 days of receipt of this Order. This Court within its ambit and scope of jurisdiction exercisable under the Rights of Persons with Disabilities Act, 2016 and relevant rules, advises the respondent to be more sensitive towards persons with disabilities.

**(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

extra

वाद संख्या 7576/1031/2017

R-13012

दिनांक

28

19.11.2018

श्री हेमराज डोगरा,  
A-14A, द्वितीय तल, पहली मंजिल,  
विजय नगर, दिल्ली - 110009

..... शिकायतकर्ता

बनाम

दिल्ली विश्वविद्यालय,  
[द्वारा - रजिस्ट्रार ], दिल्ली - 110007

R-13013

..... प्रतिवादी

सुनवाई की तिथि - 07.05.2018

उपस्थित -

- 1- श्री विक्रम सिंह, अधिवक्ता, प्रतिवादी पक्ष की ओर से
- 2- शिकायतकर्ता की ओर से अनुपस्थित

## आदेश

शिकायतकर्ता, 100% दृष्टिबाधित दिव्यांग शोध छात्र (हिन्दी), दिल्ली विश्वविद्यालय के शोध छात्र ने छात्रावास हेतु जुबली हॉल, दिल्ली विश्वविद्यालय में प्रवेश से सम्बन्धित अभ्यावेदन दिनांक 30.01.2017 और 04.02.2017 निःशक्त व्यक्ति (समान अवसर, अधिकार संरक्षण और पूर्ण भागीदारी) अधिनियम, 1995 के अन्तर्गत इस न्यायालय में प्रस्तुत किया।

2. शिकायतकर्ता का कहना था कि उन्हें दिल्ली विश्वविद्यालय से हिन्दी विषय में पी.एच.डी. करते हुए दो वर्ष पूरे हो गए हैं। इस तरह 01 जनवरी 2017 से तृतीय वर्ष का शोध छात्र हो गए हैं। ऐसे में जुबली हॉल छात्रावास में प्रवेश के लिए दूसरी लिस्ट में भी उनका नाम न होने पर उन्होंने दुःख प्रकट किया। शिकायतकर्ता का यह भी कहना था कि दिल्ली विश्वविद्यालय के प्रत्येक छात्रावास में दिव्यांग विद्यार्थियों के लिए पाँच प्रतिशत आरक्षण का प्रावधान है फिर भी उन्हें छात्रावास में दाखिले से वंचित रखा गया है।

3. इस न्यायालय के पत्र दिनांक 12.05.2017 द्वारा प्रतिवादी से इस प्रकरण में उनकी टिप्पणी प्रस्तुत करने की सलाह दी गई। पर्याप्त समय बीत जाने के और अनुस्मारक दिनांक 16.01.2017 के पश्चात भी प्रतिवादी से उत्तर प्राप्त न होने पर इस मामले में दिनांक 07.05.2018 को व्यक्तिगत सुनवाई का निर्णय लिया गया और सुनवाई की सूचना दिनांक 18.04.2018 दोनों पक्षों को भेजी गई।

(Page 1 of 2)

4. दिनांक 07.05.2018 को सुनवाई के दौरान प्रतिवादी के प्रतिनिधि ने उत्तर दिनांक 07.05.2018 प्रस्तुत किया और कहा कि शिकायतकर्ता को जुबली हॉल छात्रावास में प्रवेश हेतु विश्वविद्यालय द्वारा उचित अवसर प्रदान किए गए परन्तु अयोग्य पाए जाने पर छात्रावास में प्रवेश नहीं दिया गया।
5. सुनवाई के दौरान शिकायतकर्ता उपस्थित नहीं हुए। तथापि इमेल दिनांक 25.04.2018 के द्वारा यह सूचित किया कि इस न्यायालय से इस प्रकरण में उन्हें तीन पत्र प्राप्त हुए। इस मामले में इतना विलम्ब हो गया था कि उन्हें छात्रावास की आवश्यकता नहीं रही थी और इसलिए इस विषय में कुछ कहना या लिखना उचित नहीं समझा।
6. उपरोक्त तथ्यों के आलोक में दिव्यांगजन अधिकार नियम, 2017 के नियम 38(4) के अन्तर्गत इस प्रकरण को बन्द 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

Case No: 8793/1022/2017

Dated : 28 .11.2018

Dispatch No. ....

In the matter of :

Shri Pt. Vikas Sharma  
Chairman,  
Disabled Helpline Foundation,  
1520, Shri Chandi Road,  
Pilkhuwa,  
Hapur – 245304  
Email<[sharmaptvikas@gmail.com](mailto:sharmaptvikas@gmail.com)>

.....Complainant

Versus

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

.....Respondent

Date of Hearing : 07.09.2018

Present :

1. Complainant – Absent
2. Shri S.S. Chauhan, Asstt. Commissioner and Shri Bhuri Singh, Asstt. Section Officer (Retd.), on behalf of Respondent – Present.

### ORDER

The above named complainant, had filed a complaint dated 15.10.2017 under the Rights of Persons with Disabilities Act, 2016 regarding extension of date of joining and posting at KVS Jabalpur of Smt. Kavita Rani suffering from 40% visual impairment.

2. Pt. Vikas Sharma vide his email dated 31.10.2017 submitted that Ms. Kavita Rani was selected for the post of TGT Sanskrit in Kendriya Vidyalaya under PH category. She was offered to join KVS Jabalpur on or before 23.10.2017. Due to 25 weeks of pregnancy, she is unable to commence employment at KVS as she has to go for regular medical check up and the doctor has advised her against travelling. She has requested to extend her joining date for the appointed post till her pregnancy period is over and fit to carry out the assignment duty in KVS. On post delivery, she would not be in a situation to join Jabalpur alone with her small child due to her low vision problem. She has requested to give her posting near to her home town, i.e. District Fatehabad, Haryana in North Zone.

.....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 17.01.2018.
4. The Assistant Commissioner (Estt.2/3), Kendriya Vidyalaya vide his letter no. 11038/2017/KVS(HQ)/E-II/DR dated 13.06.2018 submitted that the Deputy Commissioner, Jabalpur has informed them that Smt. Kavita Rani has submitted her application dated 15.10.2017 stating that due to 25 weeks pregnancy, she is unable to join duty. She requested for extension for joining date till her pregnancy period is over and fit to carry out the assigned duty in KVS. No specific date was mentioned by her in the application for her extension. He submitted that her request has been considered and acceded to by the Deputy Commissioner KVS RO Jabalpur. The complainant has been posted at Kendriya Vidyalaya No.3 Sagar under Jabalpur region, central zone against her 2<sup>nd</sup> choice as vacancy was not available at her first choice of posting, i.e. North Zone. Her offer of appointment has not been withdrawn till date. She has neither joined her duties nor requested for any further extension for joining time so far.
5. The Complainant vide his rejoinder dated 20.06.2018 submitted that Smt. Kavita Rani had send a mail to Kendriya Vidyalaya Sangathan on 23.10.2017 asking it whether they want any other detail or documents required for extending the date for joining. He further submitted that she submitted the medical certificate from CMO to KVS.
6. After considering Respondent's reply dated 13.06.2018 and Complainant's rejoinder dated 20.06.2018, a personal hearing was scheduled on 07.09.2018.
7. The Complainant was not present during the hearing.
8. During the hearing the representative of Respondent vide his written submission dated 06.09.2018 has submitted that Smt. Kavita Rani has been selected to the post of TGT (Sanskrit) through direct recruitment and posted at Kendriya Vidyalaya No. 3 Sagar vide offer of appointment dated 06.10.2017 issued by the Deputy Commissioner, Kendriya Vidyalaya Sangathan (RO) Jabalpur against her second choice (i.e. Central Zone). As per offer of appointment, she was supposed to join upto 23.10.2017 but she could not join due to 25 weeks of pregnancy and requested vide her application dated 15.10.2017 for extension and for modification of her place of posting at her nearby Kendriya Vidyalaya of district Fatehabad, Haryanad. As per record, vacancy of TGT (Sanskrit) is not available in any Kendriya Vidyalaya of her requested place. However, her offer of appointment has not been withdrawn. She has been posted in Central Zone against her second choice due to non-availability of vacancy at her first choice.

9. Smt. Kavita Rani is advised to join at the Kendriya Vidyalaya in the Central Zone where the vacancy of TGT (Sanskrit) exist as her offer of appointment has not been withdrawn by Kendriya Vidyalaya Sangathan.

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: 8739/1024/2017

Dated : 28 .11.2018

Dispatch No. ....

In the matter of :

Shri Ram Prakash Mishra,  
R/o RZ J B-6A/215,  
2<sup>nd</sup> Floor, Amrohi House,  
West Sagarpur,  
New Delhi – 110 046

R-13206

.....Complainant

**Versus**

The National Human Rights Commission,  
(Through the Secretary General)  
Manav Adhikar Bhawan,  
Block-C, GPO Complex,  
INA,  
New Delhi - 110023

R-13207

.....Respondent

**Date of Hearing : 06.08.2018**

**Present :**

1. Shri Ram Prakash Mishra, Complainant – Present
2. Shri Sanjay Kumar, Under Secretary, on behalf of Respondent – Present

### ORDER

The above named complainant, a person suffering from 100% visual impairment, had filed a complaint dated 28.08.2017 under the Rights of Persons with Disabilities Act, 2016 regarding re-employment in the Commission on regular and permanent post.

2. The Complainant submitted that he is a highly educated and experienced person and has passed B.A., L.L.B and receiving scholarship from Ministry of Social Justice & Empowerment. He worked as a Consultant on contract basis with National Human Rights Commission for 15 years. He made a representation to Nation Human Rights Commission (NHRC) and requested to give him a permanent job. He was removed from service by his establishment. His elder son, who is also a Visually impaired person, has done his B.Tech from IIT-Kanpur. He received a placement in a Start-Up industry, but that industry ceased its working and his son has become jobless. The complainant's family is finding difficulty in making both ends meet. The complainant had registered his name with the Special Employment Exchange in N.C.T. of Delhi since 1994.

....2/-

The applicant is only able to earn a meagre income by giving advice on Law to poor people. He submitted that it is the constitutional duty and social obligation of the competent government authorities to help the complainant to stand on his own feet and lead a respectable life. The complainant further submitted that he may commit any unfortunate/fatal incident with himself in front of this Office out of depression and frustration if his request is not considered sympathetically.

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 25.01.2018.

4. The Under Secretary (Estt.), National Human Rights Commission vide his letter no. Z-16022/27/2003-Estt./2677-2679 dated 09.03.2018 submitted that the complainant was never appointed on regular basis in any post in the Commission as he was not fulfilling the eligibility conditions as per the Recruitment Rules. The complainant is over age for appointment to any post in the Commission on regular basis. His date of birth is 27.05.1964, i.e. 53 years and also does not fulfill the eligibility criteria required as per recruitment rules for various posts. Therefore, the complainant was informed that his permanent appointment in any regular post in the Commission is not feasible in terms of the recruitment rules. He further submitted that since the complainant was not employed in the Commission on regular basis in any post, provisions of Section 20(4) of the Rights of Persons with Disabilities Act, 2016 does not apply. He was engaged as a Consultant (Scrutiny) in the Commission on humanitarian grounds for giving support of livelihood to himself and his family. The engagement as Consultant Scrutiny) is not a regular appointment and continuation / extension of engagement / empanelment as Consultant (Scrutiny) is subject to satisfactory performance. The complainant's performance was not satisfactory but however, he was allowed to continue scrutiny work after regular counseling for showing improvement on sympathetic grounds. The complainant's performance did not improve and therefore, on the recommendation of Registrar (Law), his services were not extended beyond June 2017. In addition to the complainant two more Consultants(Scrutiny) whose performance were not found satisfactory were also not given extension beyond June 2017. He further stated that Shri Ram Prakash Mishra is also in the habit of submitting representations for regular employment whenever senior officers join the Commission.

5. The complainant vide his rejoinder dated 02.04.2018 reiterated his earlier submissions and added that the Respondent has considered regular employment of one Shri Piyush Parasar in Group 'C' post. Shri Parasar was considered for regular appointment in Group 'C', being a relative of Joint Registrar (Shri A.K. Parasar) of NHRC. He submitted that he has been making representations to the Respondent for regular appointment since his initial appointment as Consultant Scrutiny. He had applied for the post of Research Assistant, Joint Director Research, Senior Research Assistant, Registrar Law, Consultant Section Officer, Senior Research Officer,

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Joint Registrar, Assistant Registrar as per the advertisement fulfilling the eligibility criteria for appointment on contract basis but the Respondent has declined the claim of the complainant illegally and arbitrary manner. The complainant had also applied for LDC and Peon/Messenger/Co-ordinator against regular post but was not granted age relaxation. Finally he was disengaged from the post of Consultant (Scrutiny) in June 2017. He has been facing starvation due to unemployment but the Respondent did not provide him regular employment till date.

6. After considering Respondent's reply dated 09.03.2018 and Complainant's rejoinder 02.04.2018, a personal hearing was scheduled on 06.08.2018.

7. During the hearing the Complainant submitted that he worked as a Consultant on contract basis with National Human Rights Commission for 15 years. He made representations to National Human Rights Commission (NHRC) for giving him a permanent job. He was removed from service by his establishment. He is now jobless and finding difficulty in making both ends meet. He is able to earn a meagre income by giving advice on Law to poor people. He has requested to give him a permanent employment in NHRC.

8. During the hearing the representative of Respondent submitted that the Complainant was never appointed on regular basis in any post in the Commission as he was not fulfilling the eligibility conditions as per the Recruitment Rules. The complainant is 54 years now and is over aged for appointment to any post in the Commission on regular basis. He submitted that since the complainant was not employed in the Commission on regular basis in any post, provisions of Section 20(4) of the Rights of Persons with Disabilities Act, 2016 does not apply on him. He was engaged as a Consultant (Scrutiny) in the Commission on humanitarian ground for giving support of livelihood to himself and his family. The complainant's performance was not satisfactory and did not improve and therefore, on the recommendation of Registrar (Law), his services were not extended beyond June 2017. In addition to the complainant, two more Consultants whose performance was not found satisfactory were also not given extension beyond June 2017. Since the employment to a blind person, or any handicapped person cannot be claimed as a matter of right, the complainant was dismissed *in limini* vide Commission's Order dated 01.03.2017, on the ground that the allegations do not make out any specific violation of human right. The engagement of the complainant in the Commission as a Consultant for Scrutiny of complaints is purely on temporary basis. This engagement as Consultant (Scrutiny) is not a regular appointment against any post but an empanelment of Advocates on payment of a fixed amount per complaint scrutinized. These Consultants (including the complainant) collect complaints from the Commission and return the same duly scrutinized, on a weekly basis. They are not provided any

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sitting space in the Commission as their services are not availed / required on full time basis. At the end of each month they prefer a claim for the total complaints scrutinized by them during the month, which Commission pays to them after due verification. At no stage either the complainant or other Consultants engaged for scrutiny of complaints have been given any assurance of permanent job in the Commission on account of their empanelment for scrutiny work. As regards complainant's clam for appointment on visually handicapped quota, the same is applicable to appointments made on direct recruitment basis only. The method of recruitment as per the recruitment rules of various posts to which the complainant had applied are either on deputation basis failing which by re-employment/short terms contract basis failing which by re-employment/short term contract basis. Shri Piyush Parashar has never been appointed in Group C posts in the Commission on regular basis. In fact Shri Piyush Parashar is engaged as Data Entry Operator on daily basis in the Commission. He is not a mentally disabled person as alleged by the complainant.

9. The Court directed that considering the disability of the Complainant, he may be considered to work as a Consultant in NHRC on humanitarian ground. This Court within its ambit and scope of jurisdiction exercisable under the Rights of Persons with Disabilities Act, 2016 and relevant rules, advises the respondent to be more sensitive towards persons with disabilities.

10. The matter 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: 8422/1013/2018

Dated: 29.11.2018

**In the matter of:-**

Shri Anshul Kumar

SA 5/140-L 16 K, Sanjay Kumar Colony

Ramrepur, Pahadia, Varanasi – 221007

Complainant

Versus

Lalit Kala Akademi

Through the Secretary

Rabindra Bhawan, New Delhi – 110001

Respondent

**Date of Hearing: 20.11.2018 & 30.10.2018**

Present:

1. Shri Anshul Kumar – complainant and his Counsel Shri Rajan Mani
2. Shri Parkash Chand (Asstt.) and Shri Krishna Chandra Dubey, Advocate on behalf of respondent

### ORDER

The above named complainant Shri Anshul Kumar, a person with 100% hearing impairment filed a complaint dated 24.08.2017 under the Rights of Persons with Disabilities Act, 2016 regarding appointment to the post of MTS in Lalit Kala Akademi;

2. Complainant in his complaint submitted that after passing written examination and computer skill test for the post of MTS, he reached for documents verification and at the time of documents verification, he came to know that he had obtained marks in written examination: 45/100 and in computer skill test: 49.9/50. He further submitted that 2<sup>nd</sup> Ranker was a girl and she obtained marks as 41/100 and 39.9/50 respectively but a letter for joining to MTS post served to 2<sup>nd</sup> Ranker.

3. The matter was taken up with the respondent vide letter dated 15.11.2017 under Section 75 of the RPwD Act, 2016.

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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. 9646/1081/2018

Dated: .11.2018

**In the matter of:**

Mr. Linesh V.V.  
C228A1, 1<sup>st</sup> Floor  
Paryavaran Complex, Saket  
New Delhi-110030

Complainant

**Versus**

University of Delhi  
(through: the Deputy Registrar(Estate)  
Room No. 107, (FF)  
New Administrative Block  
Delhi University, New Delhi-110007

Respondent No. 01

Shri Ram College of Commerce  
(through: the Principal)  
University of Delhi, New Delhi-110007

Respondent No. 02

The Convenor & Members  
The Allotment Advisory Committee  
Sriram College of Commerce  
University of Delhi  
Murice Nagar, Delhi-110007

Respondent No. 03

**Date of Hearing : 11.09.2018**

**Present:**

Shri Linesh V.V. - Self, On behalf of the Complainant  
Shri Pankaj Sinha, Adv. – On behalf of the Complainant  
Shri Sachin N, Delhi University – On behalf of the Complainant  
Shri Mohinder J S Rupal, Adv. – On behalf of the Respondent No. 02 & 03  
Shri Jatin Lamba, A.O.(Adm.) – On behalf of Respondent No. 02&03  
Shri Prang Newmat, Adv. – On behalf of Respondent No. 02&03  
Shri Saurabh Banerjee, Adv. – on behalf of Respondent No. 01

**Date of Hearing : 29.09.2018**

**Present:**

Shri Linesh V.V. – Self, On the behalf of the Complainant  
Shri Sachin N, Delhi University – On behalf of the Complainant  
Shri Mohinder J S Rupal, Adv. – On behalf of the Respondent No. 02 & 03  
Shri Saurabh Banerjee, Adv. – on behalf of Respondent No. 01

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## ORDER

The above named complainant submitted a complaint dated 12.04.2018 to this Court regarding not following rules for allotment of residences by the University of Delhi 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 14.05.2018.

3. The Principal, Shri Ram College of Commerce vide letter No. SRCC/AD-161/2018/139 dated 22.06.2018 submitted as under:-

- I. Shri Ram College of Commerce is a constituent College of the University of Delhi and is governed by rules and regulations of the University of Delhi.
- II. Mr. V.V. Linesh, seeking allotment of staff quarter No. T-1 under the quota for Persons with Disabilities(PwD) has relied upon a judgment of the High Court of Delhi in WP(C) 1952/2013 dated 13.05.2013, wherein the Hon'ble Court had directed for 3% quota for PwD employee in allotment of staff quarters, and an order dated 31.03.2014 of the Department of Personnel & Training (DoPT) regarding guidelines for providing certain facilities to PwD who are in employment of government organizations thereby directing preference in allotment of accommodation to PwD employees.
- III. In this context, the College had sought clarification from the university of Delhi vide its letter dated 28.02.2018 and dated 26.03.2018, provided a copy of the minutes of meeting of a committee constituted by its Allotment Advisory Committee held on 21.11.2001 wherein it had recommended allotment of accommodation on medical grounds with reserved quota of 5% including 1% reservation for handicapped employees.
- IV. No advisory has been given to the College by the University of Delhi with respect to 3% reservation for PwD, as ordered by the Hon'ble High Court of Delhi, or specific query with regard to preference in allotment of accommodation to PwD employees, in response to the clarification sought by the College.
- V. Further, may inform that the compliance of allotment of accommodation under the PwD quota has been fulfilled both under 1% reservation( as suggested by the University of Delhi), as well as, 3% reservation(as ordered by the Hon'ble High Court of Delhi), since 1 out of a total of 22 teachers' staff quarters has already been allotted to one faculty member under the PwD Quota. This comes to 4.54% (higher than both 1% and 3%). Thereby, due compliance of the norms has already been ensured.
- VI. After deliberations at length, SRCC's Allotment Advisory Committee, in its meeting held on 20.06.2018, unanimously decided to go by the rule of allotment of staff quarter based on seniority and the senior-most faculty member amongst the eligible applicants has been allotted flat T-1.

4. Shri Linesh V.V., the Complainant vide his rejoinder dated 21.07.2018 has submitted that the High Court in WP(C) No. 1952/2013 directed NCT of Delhi mandates that 'separate clear reservation of 3% for persons with disabilities, qua allotment of pool accommodation; and that the entitlement of persons with disabilities to residential accommodation cannot be clubbed with the discretionary allotment on medical ground; and that there could be no question of allotment of one category below


same has also been sent to the Joint Registrar(Legal) of the University of Delhi. However, response from the University is awaited. Mr. Linesh V.V., vide his letter dated October 17, 2018 requested for ad-hoc allotment of a staff quarter relying upon an order of the Directorate of Estates, Government of India on ad-hoc allotment(out of turn) from general pool of staff quarters for persons appointed under the reserved quota for persons with disabilities. His request was placed before the Allotment Advisory Committee and a meeting was held on October 17, 2018. The committee decided to write to the University of Delhi seeking their guidance on the said order of the Directorate of Estates, besides apprising them about decision of the Committee in giving favourable consideration to his request for ad-hoc allotment of a flat. It was further decided that the University's response shall be awaited till October 26, 2018. In case the University does not revert by then, an ad-hoc allotment(of a presently vacant and non-advertised flat) shall be made. Having not received any response from the University of Delhi, a presently vacant and non-advertised flat (T-4) has been offered for allotment to Mr. Linesh V.V. on ad-hoc basis on 27.10.2018. In view of the above, it is hereby submitted that the institution is very much concerned about needs of the specially abled students and staff members. However, in the absence of clarity from the University of Delhi regarding the reservation quota to be followed, the allotment of a flat under the reservation quota for PwD could not be made to Mr. Linesh. This college is a constituted college of the University of Delhi and any order of the Government of India or any Hon'ble Court of Law is required to be notified by the university of Delhi before its implementation in any of its departments and colleges. Hence, we await for notification of the University of Delhi regarding the appropriate reservation quota to be followed for allotment of staff quarter in case of PwDs.

9. The Complainant has submitted during the hearing that as per the Central Government General Pool Residential accommodation Rules, 2017 Part IV(Change of Accommodation) 44 (2) only one change shall be allowed in the same type of accommodation to the allottee. In the case of allotment of T1 New Teachers Staff Quarter, the allottee has been permitted to make the second change in the same type of accommodation. Initially, the allottee has been made fresh allotment T12 and then shifted to T4. In the recent allotment, she has shifted from T4 to T1. According to College Rules, all 22 flats in the General Pool of Allotment are coming under Type III Category. Therefore, this is a blatant violation of the extended rule of Delhi University Staff Quarter Allotment. The last Court Hearing dated 11.09.2018, the honourable Commission of Persons with Disabilities categorically stated that the rule position of Persons with Disabilities Category for the allotment of Residence. Despite of having this direction, in Allotment Advisory Committee of Shri Ram College of Commerce held on 11<sup>th</sup> October, 2018 in the College, the Committee were not ready to consider his requests in this regard. Rather they have decided to seek a clarification from Delhi University on this issue. However, the University has already given the clarification on 26.03.2018. This shows the reluctance of the College to comply with the Order of the Honourable Court of Persons with Disabilities.

10. After hearing all the parties and perusal of record available in case file, the case is disposed of with the direction to the Respondent No. 02 that Ad-hoc accommodation made to the complainant may be provided permanently as per extent rules. It is ensured that person with disability shall not be deprived of his legitimate rights guaranteed by RPwD Act, 2016.

8. During the hearing the Respondent submitted that 'EOL granted to a Government Servant for pursuing higher technical and scientific studies without medical certificate shall be counted as qualifying service for grant of regular increment. He submitted that EOL was granted for preparation of Civil Services Exam and not for pursuing higher technical and scientific studies, hence these period are not to be counted towards qualifying service. He submitted that as far as for grant of permission for purchase of (Rt) High-Tech KAFO (Caliper) System is concerned, they have taken up with the concerned higher official. The Respondent submitted that the complainant was paid difference of Medical Bill to the tune of Rs.5397/-. He reiterated that action is being initiated to create accessible office premises for persons with disabilities. The Respondent submitted that the proposal for nomination of Grievance Redressal Officer at the Regional and Divisional Levels is under process.

9. The Court directed the Respondent to consider posting of the Complainant to the Post Office near to his residence in the light of DoP&T O.M. No. 36035/3/2013-Estt.(Res) dated 31.03.2014. The Court also directed the Respondent to provide a barrier free working environment to the persons with disabilities in their establishment.



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