



सत्यमेव जयते

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

Case No. 2449/1014/2014

Dated: 04/07/2017

In the matter of:-

Mrs. K.S. Lata
M/o K. Rajasekhar
207, Mehta Towers
Ashok Nagar, Hyderabad-500020

Complainant

Versus

Indian Institute of Chemical Technology
Through: the Director
(Formerly Regional Research Laboratory)
Hyderabad – 500007, Andhra Pradesh.

Respondent

Date of hearing: 28.04.2017

Present:

1. Complainant present.
2. Shri Pawan Kumar Misra, Law Officer, CSIR, New Delhi along with Shri D.J.N. Prasad, AO, Indian Institute of Chemical Technology, Hyderabad were present on behalf of the respondent.

ORDER

Director, National Institute for the Mentally Handicapped, Secunderabad vide his letter dated 23.07.2014 forwarded the representation dated 26.06.2014 of Smt. K.S. Lata, M/o Shri K. Rajasekhar requesting for appointing her son to the post of MTS. Shri Rajasekhar was appointed as Trainee at Indian Institute of Chemical Technology (IICT) without Grade Pay on compassionate grounds after the demise of his father. The orders say that Shri Rajasekhar has to get the required educational qualifications of Matriculation or equivalent in 05 years time. In IICT's appointment letter given to her son, there was no mention about his disability at all though the disability certificate was submitted to IICT and their Doctor endorsed in writing "Disability Certificate enclosed". Smt. Lata requested IICT to relax the educational qualifications as her son is a person with disability. She received a reply that there is no provision in the Recruitment Rules for Multi Tasking Staff (MTS) framed by CSIR for relaxation of educational qualification norms and hence her request cannot be acceded to. In their reply, they had not mentioned about his disability factor.

2. The complainant further submitted that as her son is suffering from intellectual disability, he could not attend the regular classes and hence cannot be qualified Matriculation. The post of MTS is not a technical job and does not need expertise as it is nothing but the job of a peon/attendant which her son is performing from the last 17 years at IICT on contract basis. She



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submitted that since there is a clause of "relaxation" in Government which can be executed by the Departmental Head as an exceptional case and exempt him without insisting for minimum educational qualifications for the post of MTS on humanitarian grounds too.

3. The matter was taken up with the Director, IICT vide this Court's letter dated 13.02.2015. In response, Controller of Administration vide letter dated 12.03.2015 intimated that the complainant's son was appointed as Trainee in Pay Band of Rs.4440-7440 without Grade Pay as he did not possess qualifications of Group C post for which at least Matriculation Pass is the essential qualification for the lowest post i.e. MTS. A Trainee appointed on compassionate grounds has to acquire minimum educational qualification in 05 years for placing as MTS. As the complainant made representations requesting for relaxation of educational qualification, she was conveyed vide CSIR's letter No. 4-6(17)/2010-HR-II dated 30.05.2014 that there is no provision in the Recruitment Rules for MTS framed by CSIR for relaxation of educational qualification norms.

4. The complainant vide rejoinder dated 28.05.2015 submitted that the facts of her son's case proves that his case is a rarest of the rare cases which neither CSIR nor IICT might have come across so far. The treatment met by her son is discriminatory as per the Persons with Disabilities Act, 1995 and also against fundamental rights of a person to work and under Rights of Constitution. She requested to do due justice to her son by duly waiving of the clause of educational qualifications and prayed to this Court to appoint her son as a MTS.

5. The copy of complainant's rejoinder dated 28.05.2015 was forwarded to the respondent for comments who vide letter dated 30.06.2015 had requested for extension of time for a period of one month for submitting the comments. The rejoinder further vide letter dated 17.08.2015 submitted that the complainant's son was not deprived of any benefits being a person with mental retardation and was appointed on compassionate grounds in accordance with the rules applicable. The compassionate appointment rules do not have provision for relaxing educational qualifications for persons with mental retardation. However, the matter of relaxation of educational qualification in respect of Differently abled Person appointed on compassionate grounds as MTS was referred to DoP&T by CSIR Hqrs. for their advice and the reply is awaited.

6. DoP&T vide its O.M. No. 14014/02/2012-Estt (D) dated 16.01.2013 had issued the consolidated instructions on compassionate appointment. As per para 5(b) of the said O.M., it is



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clearly mentioned therein that applicant for compassionate appointment should be eligible and suitable for the post in all respects under the provisions of the relevant Recruitment Rules.

7. The respondent was reminded time and again to expedite the advice of the DoP&T in the matter. The respondent vide letter dated 29.03.2016 intimated that DoP&T returned their file to follow the procedure laid down in DoP&T's O.M. No. 43011/9/2014-Estt.D dated 28.10.2015 for referring the file to DoP&T. They have further pursuing the matter with the DoP&T. However, no advice was received by CSIR from the DoP&T. As such, the matter was listed for hearing on 28.04.2017.

8. During the hearing, the complainant submitted that as to why IICT has not recorded the disability of his son in his appointment letter when the Doctor endorsed that the Disability Certificate was enclosed. His son has been deprived of his right to be considered by the appropriate authority for considering relaxation of educational qualification. She requested the Court to waive off the educational qualification considering his disability as well as his long service of 20 years at IICT. In this regard, the complainant also referred to DoP&T's O.M. 14014/2/2009/Estt.(D) dated 11.12.2009 which provides for relaxation for the post of MTS without any educational qualifications.

9. During the hearing, the representatives of the respondent submitted that the complainant's son enjoys the status of a Government servant from the initial date of his appointment and is allowed all the allowances and benefits to a Government servant. In the appointment letter issued to the complainant's son, it was specifically mentioned that he will have to acquire the minimum educational qualifications of Matriculation or equivalent within 05 years from the date of appointment as he was appointed on compassionate grounds.

10. The Court after hearing both the parties directed that there is no violation of any provision of the Persons with Disabilities Act, 1995 and the matter is accordingly disposed off.

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