



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.263/1021/12-13

Dated:- 07.11.2016

In the matter of:

Shri R.L. Kank,
45/7, Old Type III,
Ordnance Estate, D482
Khadki Bazar,
Pune-411003
Email ramchandrakank@gmail.com

.... Complainant

Versus

Ordnance Factory Board,
(Through Secretary),
Ayudh Bhawan, D483
10-A, S.K. Bose Road,
Kolkata-700 001.

.... Respondent

Date of hearing : 20.06.2016

Present :

1. Shri R.L. Kank, Complainant.
2. Shri Alok Kumar Singh, WM/Admin/AFK, on behalf of Respondent.

ORDER

The above named complainant, a person with 100% blindness filed a complaint dated August, 2012 before the Chief Commissioner for Persons with Disabilities under the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, hereinafter referred to as the 'Act' regarding promotion.

2. The complainant has submitted that recently he has been promoted as MCM on the basis of seniority. Before the promotion, he worked as Line Mistry HS-1. While working as HS-2, he applied for the next promotion as Chargeman vide his application dated 09.01.2004, but no reply was given by the Ammunition Factory, Khadki, Pune. Again in the year 2009, he applied for the same post as Chargeman, he was informed that the post of Chargeman-II/T is not identified for persons with visual impairment. He has drawn attention towards Section 47(2) of the Persons with Disabilities Act, 1995 as per which no promotion shall be denied to a person merely on the ground of his disabilities.

3. The matter was taken up with the respondent vide this Court's letter dated 21.03.2013 followed by reminders dated 03.09.2014 and 28.05.2015 respectively.

4. As no reply has been received from the respondent, a hearing was scheduled on 20.06.2016.

5. The respondent vide letter No.039/44./RLK/Per/Policy dated 06.06.2016 has filed the reply submitting that neither the complaint dated August, 2012 of the complainant nor any earlier

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communications dated 21.03.2013, 03.09.2014 and 28.05.2015 as has been stated in the above letter have been received by them. In view of the above and since the complainant has alleged of denial of promotion under PH quota, AFK is authorized/advised to appear before the said Court on the above date and time and submit defence on behalf of OFB. It is also requested to forward the brief of the case by return fax to them and outcome of the hearing held on 20.06.2016 in the case be intimated to OFB.

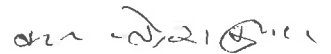
6. During the hearing, the complainant reiterated his written submissions and submitted that he was appointed as a Mazdoor 'B' category in Varangaon Ammunition Factory against physically handicapped quota through Staff Selection Commission in the year 1989. Two promotions were given to him i.e. DBW Semi-Skilled and another DBW skilled on general seniority basis and not physically handicapped category. On compassionate ground, he was posted/transferred to Ammunition Factory, Khadki, Pune on 11.08.1997. One promotion i.e. HS 2 (Line Mistry) was given to him on general seniority basis. Till date, he has not been promoted against physically handicapped reservation quota. In the year 2004, he had applied for the post of Chargeman against physically handicapped reservation quota and even he had applied in the year 2009 for the same post but in vain. In turn, the respondent had replied vide their letter No.F-4/181 dated 17.02.2009 stating that post identified for persons with disabilities for Group 'B' officers are identified only for OH (Orthopedically Handicapped) i.e. OA (One Arm), OL (One Leg) and HH (Hearing Handicapped). He is working in the same Section (F-4) for the last 25 years without any difficulties. He is entitled for next promotion as Chargeman but it has been denied merely on the ground that he is 100% visually impaired person. While denying the promotion, they have not given the financial benefit as per the existing physically handicapped rules.

7. During the course of hearing, the representative of the respondent filed a copy of Written Submissions, which was taken on record and submitted that the post of Chargeman (Technical and Non-Technical) carries a Grade Pay of Rs.4200 in Pay Band-2. As per the re-classification of Civil Posts, the post of Chargeman (Technical and Non Technical) stands re-classified as Group 'B' with effect from 09.04.2009. As per DoP&T's O.M. dated 29.12.2005, the quantum of reservation of 3% of the vacancies for persons with disabilities is available only for the vacancies in case of promotion to Group 'D' and Group 'C' posts. There is no quantum of reservation prescribed for persons with disabilities in case of promotion to Group 'B'. The post of Chargeman (Technical-Chemical) has been re-classified as Group 'B'. The post of Chargeman (Technical-Chemical) has never been identified for persons with disabilities belonging for direct recruitment as well as promotion till 17.02.2015. Again in the year 2013, the Ministry of Social Justice & Empowerment issued Notification No.16-15/2010-DD.III dated 29.07.2013 regarding identification of jobs/posts for persons with disabilities. In the said Notification, Ministry of Social Justice & Empowerment had authorized the respective Departments to identify the job/posts which can be physically carried out by the persons with disabilities. Accordingly

OFB constituted a High Power Committee for identifying the jobs/posts keeping in view the functional job requirement of the Ordnance Factories Organization. This exercise was undertaken to identify the categories of the disabled suitable for the jobs/posts based on the physical requirements essential for carrying out the jobs in a given post. The High Power Committee recommendations for functional classifications was circulated by OFB. As seen from the above, no Chargeman (Technical) post is identified for Visually Handicapped persons based on the physical requirements. Similarly, the Group 'B' and Group 'C' post in Industrial Establishment who are required to work in explosives areas, are not identified for any categories of persons with disabilities based on the physical requirements. The request of the complainant for promotion to the post of Chargeman (Technical-Chemical) in the pay band of Rs. 9300-34800 having a grade pay of Rs.4200/- against a post reserved for Visually Handicapped (VH) category could not be met since the post of Chargeman (Technical), being a Group 'B' post, there is no reservation in promotion for persons with disabilities from Group 'C' post (highly skilled) in Group 'B' Chargeman (Technical). The post of Chargeman (Technical) has not been identified for the Visually Challenged persons considering the physical/functional requirement. As evident from the details of the posts held by the complainant, the complainant has not been denied of promotion at any point of time in the Industrial Establishment from the post of Labour B (Un-Skilled) to the post of Line Mistry (Filling) (Master Craftsman). It is thus submitted that the complaint submitted by the complainant is without any merits and may be dismissed.

8. After hearing the parties and after perusal of the records in the file, this Court is of the view that as the post Chargeman (Technical) is a Group 'B' post and not identified suitable for visually impaired persons, there is no violation of any provision of the Persons with Disabilities Act, 1995 or Government instructions as the post is a Group 'B' post and further not identified suitable for person with visual impairment. Apart from above, as per DoP&T's instructions, there is no reservation in promotion in Group 'B' posts.

9. In view of the above, no direction can be given to the respondent. The case is accordingly disposed off.



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