



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. 2659/1024/2014
3104/1024/2014
3450/1024/2015

Dated:- 10.07.2017
Dispatch No.....

In the matter of:

Shri D.S. Bhati,
434B, Yamunapuram,
Bulandshahr,
Uttar Pradesh-203001
Email<dsbhati1957@gmail.com>

R2352

..... Complainant

Versus

Canara Bank,
(Through Chairman & Managing Director),
112, J.C. Road,
Bangalore - 560002

R2353

..... Respondent

Date of Hearing : 05.09.2016, 24.10.2016, 12.12.2016

Present

05.09.2016

1. Shri D.S. Bhati, Complainant.
2. S/Shri Anurag Parikh, Divisional Manager, on behalf of Respondent.

24.10.2016

1. Shri D.S. Bhati, Complainant.
2. S/Shri Tarun Goel and Satish K. Dhir, on behalf of Respondent.

12.12.2016

1. Shri D.S. Bhati, Complainant.
2. S/Shri Tarun Goel and Satish K. Dhir, on behalf of Respondent.

ORDER

The above named complainant, a person with 90% locomotor disability filed complaints dated 18.07.2014 & 24.09.2014 in Case No.2659/1024/2014, dated 13.11.2014, Case No.3104/1024/2014 dated 01.01.2015 and in Case No.3450/1024/2015 under the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, thereinafter referred to as the Act, regarding discrimination in employment and deprivation of a person with disability of his constitutional rights to earn a livelihood under Section 58 of PwD Act, 1995 and permission for House Rent on personal lease and conveyance arrears.

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Case No. 2659/1024/2014

2. The Complainant submitted that he is a Wheel Chair user. On promotion, he took charge as Scale-2 Manager in the Canara Bank, Circle Office, HRM Section, Ratan Tower, Sector-5, Jagriti Vihar, Opposite Medical College, Meerut on 28.06.2014 from Shri R.K. Gupta, Scale 1 Officer. Shri R.K. Gupta continued to make rounds of the bank unofficially till 30.06.2014 to make another Shri P.K. Gupta to join the office as Manager. The complainant has reported this matter through e-mail to PCA which were corroborated by the record of the branch camera. But as per the complainant, the PCA did not take any action in the matter. The complainant on behalf of the Bank has enclosed a copy of e-mail which he wrote to the HRM, Canara Bank apprising him of the difficulties he has been facing in discharging his official duties because of non-availability of working table and chair by the Bank. He also submitted that Shri R.K. Gupta was making hindrance in the day to day working of the Bank. The complainant has prayed for: (i) The superfluous posting of Mr. P.K. Gupta ;be stayed by order till lawful disposal of the matter. (ii) The space requirements for use of wheel chair be ensured by order before making any superfluous posting and (iii) The action of Mr. Gupta trio be probed by order.

3. The matter was taken with the Chairman-cum-Managing Director, Canara Bank under Section 59 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 vide this Court's letter dated 22.10.2014.

4. The Respondent vide letter no. HRW:IRS:DLC:CF:180:AK:4341:2014 dated 06.11.2014 has stated that the matter has been taken up with the concerned Circle Office and they shall revert to this Court at the earliest. The same was informed to the complainant for information vide this Court's letter dated 04.12.2014.

5. The complainant vide his email dated 13.10.2014 submitted that on the Orders of the Court of the Chief Commissioner for Persons with Disabilities the Bank was to purchase an appropriate wheel chair for complainant's use in office premises vide order dated 04.03.2014 as a suitable furniture for him but the same was not given due attention at the Circle Level. The

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complainant submitted that he himself took pain to collect quotations of power wheel chair and had forwarded the same to Premises Section along with copy of Court Orders aforesaid for doing the needful vide letter dated 08.09.2014, but Shri R.K. Gupta did not take serious about his application and told the complainant that H R M Section was to initiate action into the matter but categorically refused to direct the letter to H R M Section with his remark. The complainant further submitted that Wheel Chair is an item of office furniture used by a certain section of the employees and as such must be arranged for like other furniture of the Branch. In 1988, the Wheel Chair was permitted / purchased by the premises section Delhi South Circle. The copy of the letter dated 08.09.2014 along with quotations has been sent by the complainant to the Deputy General Manager, Canara Bank, Meerut by adding H R M Section to its head with request to do the needful.

6. The Respondent vide letter no. HRW:IRS:DLC:CF-180:1432:2015 dated 24.03.2015 stated that the complainant joined the service of the Bank on 17.09.1987 as Clerk under OH category and is presently working as Manager at its Bulandshahar D. M. Road since 30.06.2014. Before filing this complaint, the complainant had filed another complaint under Case No. 20/1028/08-09 in this Court and this Court vide Order dated 07.03.2014 directed the Respondent to reimburse an amount of Rs.12,612/- towards the expenses incurred for purchase of wheel chair. It was also directed to provide an appropriate wheel chair with a view to ensure that the complainant can move about safely within the premises of the respondent bank where the complainant works. The Respondent duly complied this Court's Order. The Respondent stated that the main allegations/averments in the present complaint is with reference to posting of a Manager/Branch-in-Charge at Bulandshahar. D.M. Road, Branch. The Respondent further stated that the complainant was promoted as Manager on 28.05.2014 and he was posted as 2nd line Manager at Bulandshahar, D.M. Road branch. Earlier he was working at Bulandshahar Branch as Officer. During the time of this joining at Bulandshahar, D.M. Road Branch, one Shri R.K. Gupta was the Branch-in-Charge and on his transfer, Shri F.K. Gupta (35054) Manager who was senior to the complainant in service was posted on 30.06.2014 in place of

Shri R.K. Gupta, as a branch-in-charge as part of administrative decision. On 30.06.2014 itself the complainant was posted to the said branch as second line Manager. The Respondent submitted that the above administrative decision of respondent bank has in no way deprived the rights of the complainant as an employee/Manager of the Bank. Shri P.K. Gupta has been working at Bulandshashar D.M. Road Branch as Branch-in-Charge since 30.06.2014 and continues to work in the said capacity till date. The transfers and postings of officers to a suitable place is in the interest and efficiency of the organisation and to maintain a high quality of customer service and satisfaction and is purely within the domain and prerogative of the management. Moreover, the present complaint is not against posting or transfer of the complainant himself, rather it is filed with a prayer not to post/shift a particular person from the branch which appears to be purely a personal issue. There is no allegation in the complaint that the complainant himself has been discriminated, or his service condition has been violated and as such he cannot sustain a complaint on the ground which he has presently raised before this Court. The Respondent reiterated that they have already complied the orders dated 07.03.2014 of this Court and provided a suitable wheel chair to the complainant for his use and by considering the required space for use of wheel chair, he was posted at D M. Road, Bulandshashar Branch. A copy of Respondent's letter dated 24.03.2015 has been forwarded to the complainant vide this Court's letter dated 18.05.2015 for his comments.

7. The complainant vide his rejoinder dated 27.05.2015 has submitted that the General Manager has given a false statement that the complainant has been using a Wheel Chair with access to toilet in office premises provided by the bank and order of this Court for providing a parking place for his motorized wheel chair has been implemented. He submitted that instead he was provided a totally unserviceable mode of Wheel Chair with imitatory brakes and adjustments. The branch has sought some modification to this model to make it serviceable which have been permitted by the competent authority of the circle office, Meerut but no modification has been done till date and the packed wheel chair has been kept at the strong

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room till date. The complainant has been using his own wheel chair. As there is no access to toilet, he has arranged a bucket for himself for the purpose. For entering the strong room the complainant need the help of an helper for entry and exit to it. The thick iron door of the strong room gets closed automatically and he needs help every time while entering and exiting the room. If the helper takes longer time to help him come out of the room, he feels suffocated. A copy of rejoinder dated 27.05.2015 of the complainant was sent to the General Manager, Canara Bank, Bangalore for his comments vide this court's letter dated 02.07.2015 and thereafter reminder dated 23.09.2015.

8. The Respondent vide his letter No. HRW:IRS:DLC:CF-180:AK:4253:2015 dated 11.09.2015 has stated that the bank has provided the complainant with a suitable wheel chair and the same is still available at the branch, but the complainant is using his own wheel chair. He also denied the version of the complainant that the entry of applicant's motorized wheel chair to the premises has been disabled by installing a very small entry gate during December 2014. The Respondent further stated that the request for a house accommodation at the centre where the complainant is already owning a house cannot be considered at per bank norms. The issue regarding the conveyance allowance has been examined by the bank and were released during August month salary. The HRA is being released along with the salary for the month of September 2015. He further stated that to look after the grievances of the complainant, the bank has deputed a Senior level Officer to personally speak to the complainant and examine issues relating to him and get a first hand information. They have instructed their Circle Office Meerut to consider his posting as per his convenience within Meerut and in case if he wishes to continue in the same branch, to ensure that he shall not be given strong room duties to avoid by hardship to him. A copy of Bank's reply dated 11.09.2015 has been sent to the complainant for his comments vide this court's letter dated 03.11.2015. The complainant vide his rejoinder dated 15.11.2015 has submitted that he made the initial complaint by e-mail on 18.07.2014 against posting of another Manager to the vacancy filled by him. He submitted that the Wheel Chair kept at the branch is not suitable but also unserviceable. The Meerut

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Circle vide e-mail dated 27.11.2014 had asked their branch to carry the required modifications but the branch failed to do any modifications. The Wheel Chair provided to him by the bank is China made and is warranted only for six months. The branch has steep entrance that make it difficult for the complainant while coming and going out of Branch premises. No parking place has been provided for the motorized wheel chair of the complainant by the bank. A copy of Respondent's letter dated 11.09.2015 has been sent to the complainant for his comments vide this Court's letter dated 03.11.2015.

9. The complainant vide his letter dated 15.11.2015 submitted that the Wheel Chair kept at the branch is neither reasonable nor suitable but unserviceable. The fact is clear from email of premises section Meerut Circle dated 27.11.2014 wherein they have asked the branch to carry required modifications in which the branch has failed because of lack of such facility. The complainant referring to point 2 of the rejoinder, Shri P. Mahapatra, Divisional Manager Meerut Circle has already examined the matter on 03.06.2015 whose report along with copy fo email aforesaid has been submitted with the rejoinder. The China made Wheel Chairs are warranted only for six months meant for donation purpose. This means the utility of the Wheel Chair purchased by the Bank has expired on 21.03.2015. The complainant further denied that the motorized Wheel Chair owned by the complainant is a vehicle or moped since it has all characteristics of a Wheel Chair and the respondent is too late to present the concoction after admitting it to be a Wheel Chair for 27 years. The complainant submitted that guided by the false statement of the Respondent, it is clear that the complainant needs help of somebody to come and go out of the branch which is clear violation of provision of barrier free environment for persons with disabilities in the Act. It is further reiterated that no Bank staff has been deputed with the duty of rendering help to the complainant but his driver is helping him in coming in and going out of the Branch. During the earthquake in April/May last, all the Bank staff had fled the branch premises and the complainant was left to die. This would not be happened if the complainant had been provided a suitable Wheel Chair. The complainant

denied that Order dated 13.06.2008 in Case No. 5032/2008 has ever justified the black act of prohibiting the entry of motorized Wheel Chair to the premises because the Court is not set up for that. Actually the Order has specified condition for that, i.e. arranging for parking place for the motorized Wheel Chair and another Wheel Chair for use in premises. Neither of them is carried out by the Bank except making false claim for that. The reply itself shows that the motorized Wheel Chair if used has to be left by the roadside, i.e. no parking place provided and the width of the entrance is 6 inches less than the size mentioned in the Order. And all this has happened during the pendency of the complainant. The complainant further submitted that he himself has refused to enter the strong room which is intentionally made without ventilation with air tight door which automatically gets closed after entry. The false claims made with regards to payment of HRA Conveyance and Accommodation belong to case no. 3104/1024/2014 and must be raised therein. The complainant further submitted that there is no use of deputing an officer if no problem is solved even after examining everything but only persisting with false claims. It is ironical that the respondent has expressed his commitment for minimum inconvenience instead of nothing. The copy of Complainant's letter dated 15.11.2015 has been sent to the Respondent vide this Court's letter dated 08.07.2016 for their comments.

Case No.3104/1024/2014 :

10. The complainant vide his complaint dated 13.11.2015 has submitted that he is working as JMG Scale I since 01.04.2009. As per rule, he is entitled for reimbursement of House Rent but the bank discontinued HRA that was being paid to him. The Clerical Conveyance and Physical Handicap Conveyance were also stopped. Since the rent is more than twice the HRA paid to him, the complainant has requested to permit him to stay in quarter on personal lease basis. The Clerical Conveyance and Physical Handicap Conveyance was also stopped. Since the rent is more than twice the HRA paid to him, the complainant has requested to permit him to stay in the quarter on personal lease basis. The complainant is entitled to conveyance allowance in the shape of Petrol cost.

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11. The matter was taken up with the Respondent vide this Court's letter dated 29.04.2015 to settle the issue in 30 days and submit the compliance to this Court.

12. The Respondent vide letter no. HRW:IRS:DLC:CF-180:3476:2015 dated 23.07.2015 submitted that the Salary and Conveyance Allowance as available to PH employees is being paid through HRMS package centrally by the Bank. However, the Conveyance Allowance to the PH employees as per Government Guidelines needs to be claimed by the Branch as an input by reducing the days on which the employee was on leave except for Casual Leave proportionately. On a verification of this allowance to the complainant right from April 2009, it is observed that Bank has paid this allowance to the complainant whenever an input was made by the Branch. The bank further stated they have already identified the months wherein the allowance was not claimed by the Branch and instructed the Branch to claim the same as an input so that the amount can be disbursed to the complainant. The Respondent further stated that HRA payable to the Officer's in their bank is governed by Regulation 22 of Canara Bank Officer's Service Regulation, 1979 and time to time modifications effected by way of Joint Notes entered at Industry Level to the said Regulation. As per the Regulation, in the following circumstances HRA needs to be calculated differently at different rates :

- a) Where an Officer is not provided any residential accommodation by the Bank
- b) Where an Officer produces a rent receipt.
- c) Where an Officer resides in his own accommodation.

The Respondent further stated that employee has to claim the HRA explaining under which category mentioned above he wish to claim HRA by producing the relevant supporting documents in tune with the Regulations. As per the guidelines, officers are required to submit a Request letter as per the prescribed format whenever they wish to claim minimum HRA as otherwise HRM Section of concerned Circle Office will not be knowing the option exercised by the employee. Further, if they wish to claim higher HRA than minimum, they have to apply in the prescribed format and such claim would be permissible from the date of application only. In

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the present case, the complainant had made a claim vide his application dated 14.06.2011 and he has been permitted with HRA at 150% in tune with Regulations from 01.07.2011. As such for the period between April, 2009 to June 2011, as a special case, the Respondent will be sanctioning HRA to him at minimum rate and same would be paid to him shortly. Their Circle Office, Meerut after examining the claim has addressed a letter to the complainant regarding the same indicating the tentative amount which will be paid to him shortly. A copy of the Respondent's letter dated 23.07.2015 has been forwarded to the complainant for his comments vide this Court's letter dated 09.09.2015.

13. The complainant vide his rejoinder submitted by email dated 05.11.2011, 17.02.2015, 25.07.2015, 10.08.2015, 07.11.2015 submitted that instead of giving clarification as to why the physically handicap conveyance and general conveyance was discontinued to the complainant, the respondent has submitted irrelevant and baseless things. It is without evidence that the branch discontinued sending of the related input. Moreover, how did the respondent restart it without thinking over the arrears if sincerity in statement is supposed to exist even in the least degree. The complainant submitted that the branch and the Respondent are playing hide and seek being totally indifferent to the power of the Court and willfully tormenting the complainant which must not be allowed to continue any longer. Regarding the contents of point 2, the complainant submitted that there is no fault with the complainant and hence it is strongly objected that the respondent will be paying the HRA at the minimum rate. In fairness to the complainant, he should pay the same at the maximum rate or at the actual rate with interest 15% compounded monthly with regrets. No letter of the Circle Office, Meerut has been received by the complainant as claimed in the reply. A copy of complainant's rejoinder dated 07.11.2015 has been forwarded to the General Manager, Canara Bank for his comments vide this Court's letter dated 01.07.2016.

14. The Respondent vide letter no. HRW:IRS:DLC:CF-180:3327:2016 dated 22.07.2016 stated that the Bank has treated the complaint dated 13.11.2014 of the complainant along with the notice dated 29.04.2015 as claim preferred by him for Conveyance Allowance & HRA. As

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such Bank has calculated the actual differential amount payable to the complainant towards the Conveyance Allowance as well as the HRA for the period mentioned therein. Hence the Respondent has paid the amount towards the Conveyance Allowance arrears along with the salary for the month of August 2015 and towards the HRA arrears along with salary for the month of September 2015 as submitted in its earlier reply dated 23.07.2015. The salary slips for the month of August, 2015 and September 2015 of the complainant with their above reply. The Respondent further stated that the Conveyance Allowance to the PH employees as per Government Guidelines needs to be claimed by the Branch as an input and the Bank has paid this allowance to the complainant whenever an input was made by the Branch. Similarly, for HRA also, the concerned officer employee has to claim through HRMS by producing the relevant supporting documents in tune the Regulations. The bank could not pay the same since there was no claim during the said period and the reasons for the same are detailed in their earlier reply dated 23.07.2015, which may be treated as part and parcel of this reply.

Case No. 3450/1024/2015

15. The complainant vide his complaint dated 01.01.2015 submitted that he was placed under suspension on 08.04.1992 due to some personal enmity as his father had made a complaint of misappropriation of Canara Bank, Bulandshashar property to the Divisional Manager, Meerut on 23.03.21992. The complainant had requested that the warnings dated 14.09.1988 and 02.12.1988 to be declared illegal. His suspension order dated 08.04.1992 to be declared null and void by the Court by passing an order. Further, victimization/torture of the complainant is to be stopped and he be allowed pension for full service. The complainant vide his letters dated 12.07.2015 and 18.07.2015 and 23.07.2015 submitted that he wanted to draw this Court's kind attention to the baseless allegation by the Respondent that they have not received the whole complaint with annexure sent to them by this Court. The complainant submitted that Shri C.P. Giri has prayed for closure of the case on behalf of respondent without

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signing the annexure based whereon he has sought so. The person making the written statement has to sign each part of it with verification of facts in the end. The Respondent has already passed much time in serving his falsehood. The management of the Bank has never considered the reason and purpose of suspension during domestic process and has argued illegally before the outer levels for not its consideration as clear from instances contained herein. Thus suspension is totally groundless evinced from this attitude. The Respondent seems to have assumed the position of para court under which he dictates orders to this court which are followed as is clear from the submission. The respondent stated that it is clear that the complainant has amalgamated two different cases no. 3321 and 3450 at his own to suit the concoction presented as reply. The CGIT cum Labour Court New Delhi has confined its response to the punishments of stoppage of increments imposed on the complainant and has avoided any observation even on suspension of complainant since the punishment imposed by (i.e. reduction in rank and PERMANENT loss of increment for the period involved) is additional to the reference made by the Ministry of Labour vide order dated 30.05.2000 filed with the complaint as annexure 8 point 10 which reads ;

" It is also true that at the time of the revocation of the suspension order passed against the workman it was also directed that the workman's period of suspension should not be counted towards his duty period. This I find is an independent cause of action and it cannot be taken up as an incidental to the main reference of the case. The term of the reference clearly shows that the propriety and illegality of the punishment order passed against the workman has to be considered only". The complainant submitted that it is mischievously conceived illegality that C.G.I.T. New Delhi has okayed all the acts of moral turpitude on the part of the Management given the name of "entire matter of disciplinary action". The complainant submitted that the suspension order pending enquiry dated 08.04.1992 is illegal as it was imposed by an officer not competent to do it as per service code because an employee can be placed under suspension pending enquiry only by the enquiring officer at his own or under direction by the Deputy General Manager. Mr. V.K.Garg, Law Officer was the Enquiring Officer from

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12.11.1991 to 10.06.1992 during which it was it was imposed, i.e. on 08.04.1992 and he has not issued this Order. The suspension period cannot be treated as not spent on duty for the continuing employees vide service code annexed with the complaint without adhering to the principal of natural justice regarding this punishment which entails loss of seniority and salary for the period involved through out service life. The labour court award dated 30.07.2004 says nothing regarding suspension but has given distinct directions exposing extremist approach of the Management in imposing cumulative stoppage of increment and has ordered to remove it. Obviously the award cannot be interpreted to approve the punishment of suspension inflicted by it which is additional to the punishment already found too much by the award. There is no reason on record for placing the employee under suspension on 16.04.1992 or its unprecedented continuance till 30.07.1993 even after passing an order for its revocation on 05.06.1993. It is against the government guidelines to avoid suspension by transferring the employee to another branch and complete the whole disciplinary procedure within three months and it is not possible then extend it for another quarter with recording of reasons in writing. There is no reason on record for placing the employee under suspension on 16.04.1992 or its unprecedented continuance till 30.07.1993 even after passing an order for its revocation on 05.06.1993. It is against the government guidelines to avoid suspension by transferring the employee to another branch and complete the whole disciplinary procedure within three months and if it is not possible then extend it for another quarter with recording of reasons in writing. Since the charges against the employee were not so grave enough to warrant a Presenting Officer for the Management as has been admitted by the Management Suspension for same charges was totally baseless in as much as the charges have turned out to be only nominal after award 30.07.2004. Since Shri C.P. Giri has knowingly filed a false affidavit before the Court (I P C 196 and 199) as he knows that no reason for suspension has been given in the order dated 08.04.1992 and the Labour Court has favored Management illegal contention for not considering the issue of suspension vide order dated 30.05.2000 and accordingly award dated 30.07.2004 has observed nothing regarding this matter. Hence his evidence is to be

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rejected and the contents of the complaint are hereby proved. The complainant has prayed to heed to the fact that no reply with evidence has been given by Management except an illegal attempt to bluff the court for not giving consideration of the complaint. Hence the complaint with evidence has been proved and the Hon'ble Chief Commissioner should give due observations on points/factual occurrences contained in complaint with due order including suspension. Shri C.P. Giri may be issued Show Cause under Section 196 and 199 of IPC and fined exemplary or matter be forwarded to some agency with observation for further perusal.

16. The matter was taken up with the respondent under Section 59 of the Persons with Disabilities Act vide letters dated 22.04.2015 and 12.11.2015.

17. The complainant vide his letter dated 23.07.2015 has submitted that the management has never considered the reason and purpose of suspension during domestic process and has argued illegally before the outer levels for its non-consideration as clear from instances contained herein. Thus suspension is totally groundless evinced from the attitude. The respondent seems to have assumed the position of para court under which it dictates orders to this court which are followed as is clear from the submission that follows. From its reply, it is clear that it has amalgamated two different cases no. 3321 and 3450 at his own to suit the concoction presented as reply. It need not be quoted that it is only a party to these cases and can only approach the Court with a request for that and the Court can decide the same on merit of reason moved not necessarily in its favour. The complainant submitted that the order placing the complainant under suspension pending enquiry is stamped as dated 08.04.1992 giving clear inference that it was typed much earlier to 08.04.1992. The order contains no reason for the action taken. The temporary vacancy thus created was utilized for giving permanent posting at Bulandshahar to Mrs. Mridula Gupta, a favourite of Mr. Giri (respondent). It was continued for years without disclosing purpose of such protracted continuance, even at subsistence allowance equal to full salary after one year. It was continued till 30.07.1993 ever after passing order for its revocation on 05.06.1993. The fact is clear from the present date of annual increment. It was ordered as suspension pending enquiry on 08.04.1992 Annexure 3

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but treated as suspension pending initiation of enquiry vide order 22.12.1993 Annexure 21 with complaint. The suspension order pending enquiry dated 08.04.1992 is illegal as it was imposed by an officer not competent to do it. As per service code an employee can be placed under suspension pending enquiry only by the enquiring officer at his own or under direction by the Deputy General Manager of Canara Bank Service Code and Shri V.K. Garg, Law Officer, was the Enquiring Officer from 12.11.1991 to 10.06.1992 during which it was imposed, i.e. on 08.04.1992. The suspension period cannot be treated as not spent on duty for the employees continuing in service without adhering to the principal of natural justice regarding this punishment which entails loss of seniority and salary for the period involved through out service life. The Labour Court award dated 30.07.2004 does not consider punishment of suspension because the Court has ordered for its non consideration on 30.05.2000 both orders have been annexed to complainant. The complainant further submitted that there is no reason on record for placing the employee under suspension on 16.04.1992 or its unprecedented continuance till 30.07.1993 even after passing an order for its revocation on 05.06.1993. It is against the government guidelines to avoid suspension by transferring an employee to another branch and complete the whole disciplinary procedure within three months and if it is not possible then extend it for another quarter with record of reasons in writing for extension. Since the charges against the employee were not so grave enough to warrant a Presenting Officer for the Management as has been admitted by the Manager, suspension for same charges was totally baseless in as much as the charges have turned out to be only nominal after award 30.07.2004.

18. The Respondent vide his reply No. HRW:IRS:DLC:CF-180:5361:2015 dated 23.11.2015 stated therein that the complainant has been provided with assistive devices and wheel chair. He was given preference in transfers and postings. During more than 27 years of service, the complainant was placed at his home town in Bulandshashar only. Even after his promotion at Manager, he was placed as second line manager to look after the internal control of the bank. The complainant was issued a charge sheet dated 11.10.1991 for misbehaving with the then Manager. During the course of enquiry, as the complainant misbehaved with the Enquiry

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Officer, he was issued with another charge sheet dated 10.06.1992. After the enquiry, the complainant was imposed with punishment of 'stoppage of two increments with cumulative effect'. The entire matter of disciplinary action against him has been examined by the Central Government Industrial Tribunal (CGIT), Delhi which found the enquiry conducted by the Bank as fair. The CGIT then modified the punishment to 'withholding of 3 increments without cumulative effect'. The Bank decided to accept the award, but the complainant moved to High Court of Delhi by filing WP No.19111/2004 which was later withdrawn by him and the bank then implemented the award. The respondent further stated that since the entire matter of disciplinary action has attained its final stage and the bank does not want to withdraw the chargesheet dated 11.10.1991 imposed on the complainant. A copy of respondent bank's reply dated 23.11.2015 has been sent to the complaint for his comments vide this court's letter dated 07.12.2015.

19. The complainant vide his rejoinder dated 17.12.2015 has submitted that the claim made in the respondent subject letter is admitted that the complainant referring to two cases namely 3321/1024/2014 and 3450/1024/2015 in his letter dated 14.05.2015, the submitted that the respondent is acting as the judge as well in the matter which is highly regretted in view of court's silence to such mischievous conduct.

20. Upon considering respondent's replies dated 24.03.2015, 11.09.2015 and complainant's rejoinder dated 15.11.2015 in case No.2659/1024, reply dated 23.07.2015 of the Respondent and complainant's rejoinder dated 07.11.2015 in Case No.3104/1024/2014 and respondent's reply dated 23.11.2015 and complainant's rejoinder dated 23.07.2015 in case No.3450/1024/2015, a hearing was scheduled on dated 05.09.2016 at 3.00 p.m..

21. During the hearing on 05.09.2016, the complainant reiterated his written submissions made in his complaints mentioned above. He submitted that the plea of the complainant is this that in the Constitution, the right to earn livelihood has been given to every citizen. That right has been violated on account of my illegal suspension. It is prayed that this Court may kindly

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look on this issue. I was suspended by the Bank in the year 1992 but the effect of that is still on my service. The HRA may be given to on eligible rates and not on minimum rates. I may be given conveyance in the shape of petrol cost, that may also be paid to me.

22. The representative of the respondent submitted that Bank has already given the reply vide their letter No.HRW:IRS:DLC:FC:180:3327:2016 dated 22.07.2016 on the issues raised by the complainant in his complaints. Nothing more is to be stated.

23. After hearing the parties and perusal of the record on the file, the Court observed as under:-

24. In this Case, the respondent was directed to submit the following documents to this Court before one week from the date of hearing:-

- (i) Copy of Charge Sheet.
- (ii) Copy of Order of the Disciplinary Authority.
- (iii) Copy of the Order of the Appellate Authority.
- (iv) Rules Book of the Bank.

25. The case was rescheduled for hearing on 24.10.2016.

26. During the hearing on 24.10.2016, the complainant reiterated his written submissions made in his complaints and submitted as under:-

27. The case may be decided on the basis of Union's Memo No. 35/98, copy of which has been given to the Court.

28. The representative of the respondent during the course of hearing has submitted a detailed reply dated 13.10.2016 to the 3 cases filed by the complainant with further reply dated 24.10.2016, which was taken on record, a copy of which was provided to the complainant by the representative of the respondent during the hearing. Further, the respondent has submitted true copy of Charge Sheet alongwith relevant rules of the Bank.

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29. After hearing the parties and perusal of the record available in the file, the Court observed that as the reply has been filed by the respondent today during the course of hearing, which needs to be examined. Therefore, the case is adjourned to 12.12.2016. The parties are directed to attend the hearing on the scheduled date alongwith their relevant records.

30. The hearing in the case has been rescheduled to 12.01.2017 vide this Court's letter dated 08.12.2016 due to declaration of government holiday on 12.12.2016 instead of 13.12.2016.

31. During the hearing on 12.01.2017, the complainant submitted that in Case No.2659/1024/2014, the Court had asked the complainant to produce Management's reply in which they have said that persons with disabilities cannot be made In-charge of the Branch because of his disability. The reply sent to the Court has not been even replied by the Respondent. The Court has taken copy of the complainant for further process. In Case HNo.3104/1024/2014, the Court has directed the Respondent to take eligible conveyance after filing records within 30 days from the receipt of the order. The Labour Court has ordered to impose only punishment of stoppage of 3 increments without cumulative effect and the punishment of suspension not treated on duty is additional to it which must be revoked. Union Memo No. 25/98, according to this Memo, the Management had agreed to withdraw all the punishments imposed on its employees but complainant punishments which include suspension also were not revoked. This Memo was issued after enforcement of PWD Act i.e. in 1998.

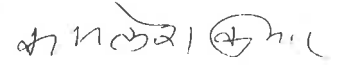
32. The representative of the respondent submitted that we have already submitted vide our reply dated 13.10.2016 that as per norms, Officers are required to submit the claim for reimbursement alongwith relevant supporting documents, namely, Petrol Bills within seven days in the succeeding month otherwise same would lapse and reasonable delay only can be condoned and delay of more than 5 to 6 years as in the present case cannot be condoned to which the record reveals that Bank has paid this allowance as and when Shri Bhati has made

.... 18/-

claim and produced the relevant supporting bills. In case No. 2659/1024/2014, this Hon'ble Court has already directed that since there is no violation of any provision of the Persons with Disabilities Act or Government instructions, no direction can be given to the Respondent Bank.. In case No. 34501024/2015, the Bank has already implemented the Award of Hon'ble CGIT dated 30.07.2004 and as such by agitating this old issue again before this Hon'ble Court after exhausting remedy before the Judicial Forum is against the Principles of Law. In the above circumstances, we request this Hon'ble Court to kindly accept our reply and close all the complaints filed by Shri D.S. Bhati, the Complainant holding that there is no merit.

33. After hearing of both the parties and perusal of the record available, the Court advised the respondent to provide useable Wheelchair in office along with easy accessibility, a barrier free environment, HRA and Conveyance as per applicable norms. Further, as far as posting aspect of Shri R.K. Gupta and Shri P.K. Gupta is concerned, it is purely an administrative matter and this matter is beyond this Court's jurisdiction. Regarding issue of suspension of the complainant in the year 1992, this matter has already been decided at the judicial forum, i.e. CGIT. Hence requires no further intervention by this Court.

34. The case is accordingly disposed off



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