



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.3836/1021/2015

Dated:- 05 .04.2017

**In the matter of:**

Shri Lalji Yadav,  
A/4, 54 Quarter, R553  
Bank Colony,  
Jahagirabad,  
BHOPAL (M.P.)

..... Complainant

**Versus**

State Bank of India, R554  
(Through Chief General Manager),  
Local Head Office,  
Hoshangabad Road,  
Bhopal (M.P.) – 462011.

..... Respondent

**Date of hearing : 26.08.2016, 13.10.2016, 25.11.2016, 09.12.2016, 27.01.2017**

**Present :**

**26.08.2016**

1. Shri Lalji Yadav, Complainant.
2. Smt. A. Venkatesan, C.M. (Law) and Shri Rajesh Jain, CM (Ind. Rel.), on behalf of Respondent.

**13.10.2016**

1. Shri Lalji Yadav, Complainant.
2. Shri Geet Verma, Manager (Law), SBI, Bhopal, on behalf of Respondent.

**25.11.2016**

1. Shri Lalji Yadav, Complainant.
2. Smt. A. Venkatesan, C.M. (Law) and Shri Nitin Kumar Gautam, Manager (IR), Rajesh Jain, CM (Ind. Rel.), on behalf of Respondent.

**09.12.2016**

1. Shri Lalji Yadav, Complainant.
2. Smt. A. Venkatesan, C.M. (Law) and Shri Rajesh Jain, CM (Ind. Rel.), on behalf of Respondent.

**27.01.2017**

1. Shri Lalji Yadav, Complainant.
2. Shri Geet Verma, Manager (Law) and Shri Rajesh Jain, Chief Manager, on behalf of Respondent.

**O R D E R**

The above named complainant Shri Lalji Yadav, a person with 100% impairment filed a complaint dated 24.02.2015 under the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, hereinafter referred to as the Act regarding denial of promotion to the post of JMGS-I.

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2. The complainant submitted that he had filed a complaint against State Bank of India, Local Head Office, Bhopal for not permitting him to sit in the examination for the post of JMGS-I for the year 2014-15 while other Telephone Operators have been permitted to appear in the said examination. He has further submitted that in the examination of 2014-15, Shri Amlendu Barua, a Head Telephone Operator from Delhi Circle, who is working in the same cadre as Telephone Operator and also a person with visual impairment, has been promoted to the post of JMGS-I.

3. The matter was taken up under Section 59 of the PwD Act, 1995 with the Respondent vide this Court's letter dated 22.04.2015.

4. The Respondent vide his letter No.HR/IR/740 dated 25.07.2015 has stated therein that Shri Yadav joined the bank on 05.06.1992 as a Telephone Operator (Specialist Category) in Delhi Circle. He was redesignated as Senior Telephone Operator w.e.f. 05.06.2002 after completion of ten years. It was further stated that as per Bank's guidelines, a specialist cadre employee can be promoted to JMGS I only after 2 years of conversion to General Cadre. The Bank had issued instructions for submitting one time option for conversion of Specialist Cadre to General Cadre upto 12.06.2011, but the complainant had not submitted the application for conversion from Specialist Cadre to General Cadre. The promotion exercise conducted during 2014-15 were applicable only for General Cadre employee. As regards the case of promoting of Shri Amlendu Barua to the post of JMGS-I is concerned, it is stated that Shri Barua had been converted from Specialist Cadre to General Cadre and thus he was considered promotion to the higher grade. A copy of bank's reply dated 25.07.2016 has been sent to the complainant for his comments vide this Court's letter dated 20.08.2015.

5. The Complainant vide his rejoinder dated 09.09.2015 has submitted that the bank has given the facts. He had submitted the application for conversion from Telephone Operator to General cadre on 29.06.2011 and also was permitted to appear in the examination for promotional test from Clerical to Officer Scale-01 in the year 2012-13 and 2013-14. He got

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qualifying marks i.e. 40 percent in written test but he was not called for interview. He further submitted that Shri Amlendu Barua who was working as Telephone Operator in Delhi Circle was permitted to appear in the examination for promotion from Clerical to OGM Scale. He passed the exam and he was appointed as an Assistant Manager in State Bank of India, Delhi. As per the complainant, Shri Barua appeared several times without getting converted from Telephone Operator to General Cadre. The copy of complainant's rejoinder dated 09.09.2015 has been sent to the respondent for his comments.

6. The Respondent vide his reply No. HR/IRA/2184 dated 23.02.2016 has submitted that the complainant submitted the application on 29.06.2011 only for conversion from Specialist Cadre to General Cadre, whereas the last date for submission of the same was 12.06.2011. Therefore, the complainant was not converted from Specialist cadre to General cadre. In the year 2012-13 and 2013-14, the complainant was erroneously permitted to appear in the promotional examination and he could not score marks to qualify in both years. As regards Shri Amlendu Barua's case, he was permitted to appear in the promotion examination of JMGS-I without conversion to General cadre as he has qualified the examination. The respondent banks' reply dated 23.02.2016 has been sent to the complainant for his comments vide this court's letter dated 30.03.2016.

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7. The complainant vide his e-mail dated 30.04.2016 has submitted that as per Circular PER/IR/30142 dated 28.07.1983, the post of Telephone Operator is not mentioned for conversion to general cadre. Shri Amlendu Barua has been promoted from clerical grade as Telephone Operator to JMGS-I without getting converging in general cadre from Specialist cadre because Telephone Operator was not prohibited from this exam as per Circular PER/IR/30142 dated 28.07.1983.

8. After considering respondent's replies dated 25.07.2015 & 23.02.2016 and complainant's rejoinders dated 09.09.2015 & 30.04.2016, a hearing was scheduled on 26.08.2016.

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9. During the hearing the complainant reiterated his written submissions and submitted that he is not satisfied with the statement of the Bank Law Officer as he was not aware about the conversion circular from Specialized category to General category. After submitting his application on dated 29.06.2011, he was permitted to appear in the examination 2012-13. Therefore, he thought that his conversion has been accepted, on the basis of which he was permitted to appear in the examination because he did not get any refusal letter in connection with his application for conversion. He further submitted that the State Bank is the only one Bank and its directions and instructions are issued from its Corporate Sector, Mumbai. Hence, all 14 circles are bounded to follow the same guidelines. If Delhi Circle, Hyderabad circle, Chennai circle including other circles are permitting the Telephone Operators to appear in the examination for promotional test then why the Bhopal Circle is not permitting and prohibiting. The Bhopal Circle is discriminating with persons with disabilities in Departmental promotions from clerical to Officer Grade. The blind people who are coming from through open examination (external) for P.O., they are not capable to prevent them otherwise they can try to prevent them also. Specially, the respondents are targeting me due to struggling for the rights of persons with visual impairment in State Bank of India as per example, I have written many letters to start banking and computer training as per normal bank employees without any discrimination, as a result of which, specially Computer Training has been started for them.

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10. The representative of the respondent submitted that the complainant Shri Lalji Yadav was appointed as Telephone Operator which is a special category of staff under clerical staff. As per Circular dated 28.07.1983, the Special Category of staff recruited in clerical scale will be eligible for conversion and the converted employees will be eligible for promotion to Officer Cadre after a period of 2 years. Vide Circular dated 31.03.2011, as per Settlement dated 12.03.2011, one time option was given to Specialized Category of Staff who have not opted earlier. Option was available for a period of three months from the date of settlement. Shri Lalji Yadav applied for conversion on 29.06.2011 whereas the last date of conversion as 12.06.2011. Shri Lalji Yadav was promoted to appear in the examination without conversion

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for the year 2011 from Delhi Circle and in the year 2010-11. Shri Lalji Yadav was not successful in the examination. For the year 2012-13 and 2013-14, he scored less marks than the qualified marks. The qualifying marks are mentioned in Para 7 of the reply dated 24.08.2016. The policy was again reviewed in the year 2015 vide Circular dated 03.02.2015. As per the revised Policy, the specialized category of clerical employees can appear for promotion to JMGS-I under Specialized category for 2015-16,. He appeared in the examination for the promotion year 2015-16 and again he did not qualify. The marks are given in Para 5 of the above reply. Hence, as per Bank, there is no discrimination in his case and complaint may be closed.

11, After hearing the parties and perusal of the record, the respondent was directed to clarify the following:-

- (i) The action taken on the complainant's application dated 29.06.2011 regarding conversion from special cadre to general cadre.
- (ii) Though the circulars regarding conversion of Specialist Category of Staff to General Category was issued on 31.03.2011 but there is no provision for reasonable accommodation to be provided to persons with disabilities.
- (iii) DoP&T vide O.M. No. 36035/4/2010-Estt. (Res) dated 01.08.2011 had clarified that if promotions are made to a Group 'A' or Group 'B' post, which is identified suitable for persons with disabilities of a specific category, the persons with disabilities of relevant category in feeder grade, if any, shall be considered for promotion to the post of applying the same criterion as applicable to other person. Whether any corrigendum was issued by the Bank thereafter?
- (iv) Another Circular No. CDO/P&HRD-IR/79/2014-15 dated 03.02.2015 was issued by the State Bank of India regarding creation of a separate channel for promotion to JMGS-I under specialist category for clerical employees who have been recruited for such specialist jobs but no mention about reasonable accommodation to persons with disabilities in the circular.
- (v) The complainant was rejected to appear in the 2014 Examination, it may be clarified whether the other employees who had also not opted conversion from a Specialized Category, were allowed to appear in the said examination.

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- (vi) Cut of marks for vertical category in the year 2011-12, 2012-13, 2013-14, marks obtained by the last selected candidate in the vertical category and the marks obtained by the complainant.
- (vii) In the light of Para 5 of the Circular dated 03.02.2015, it may be clarified why the complainant was not allowed to appear in the 2014 Examination, which is clearly discrimination with persons with disabilities.

12. The case was re-scheduled for hearing on 13.10.2016.

13. During the hearing on 13.10.2016, the respondent failed to submit clarifications on issues as raised by this Court vide the Record of Proceedings dated 01.09.2016. The Respondent requested for a month's time further to submit these clarifications, which has been agreed to by the Chief Commissioner. The matter will now be listed for hearing on 25.11.2016.

14. During the hearing on 25.11.2016, the complainant reiterated his written submissions and submitted that at the time of joining of the officer on the post of Deputy Manager in the State Bank of India, it is compulsory that after his promotion, he is appointed in the semi rural or wholly rural branch so that he could complete his operation assignment. The assignments are - 1. Branch Manager, 2. Field Officer, 3. Service Manager, 4. A.T.M. Manager and 5 Accountant so that he could complete these assignments with responsibility and with rightful manner. If he is placed in L.H.O. or Zonal R.B.O. then an undertaking is taken from him that he will not make a demand for his advance promotion till two years. If Nilesh Singhal without completing the assignment and without working in the rural branches can be given promotion from the past two years then why I cannot be given promotion after appearing in the examination and getting the pass marks. I want to make it clear that asking by me the written qualifying marks during the year 2012-13 an 2013-14 under the Right to Information Act, the Bank has submitted the wrong facts which have been confirmed by the National Federation of The Blind, Delhi. Therefore, it is prayed that I may be given justice.

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15. The representative of the respondent submitted a copy of the reply dated 24.11.2016, which was taken on record, a copy of which was handed over to the complainant by the respondent during the course of hearing for his comments, if any and submitted that the application dated 29.06.2011 filed by the complainant is not in our record. As per the Memorandum of Settlement dated 12.03.2011 signed with All India State Bank of India Staff Federation, one time option for conversion to general category was given to all eligible specialist staff including persons with disabilities for a period of three months from the date of the said settlement. The complainant had not opted for conversion. As per promotion policy for the year 2012-13, the cut off marks in written test for Merit Channel was 55% and for Normal Channel was 45% for general category. However, Shri Lalji Yadav under both the channel got only 39.5% and hence could not clear his written test. It is clarified that as per promotion policy for the year 2013-14, the cut off marks was as mentioned above. The minimum qualifying marks of written test for Merit Channel was 55% and for Normal Channel was 45% for General Category. However, Shri Lalji Yadav under both the channel got only 41% and hence could not clear the written test. No discrimination has been done in the case of Shri Yadav by the Bank. No other employees who had not converted from Specialist cadre to General Cadre was not permitted to appear in the examination for promotion year 2014-15. However, Shri Yadav was permitted to appear in the promotion examination year 2015-16 for promotion to JMGS-I under specialist cadre without any discrimination as per the circular dated 03.02.2015. He further submitted that Bank is not guided by the case of an individual employee but is guided by the laid down service rules which are referred to in disposal of employee's grievance. Moreover any mistake in case of an individual cannot and should not be allowed as ground for seeking any advantage/benefit.

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16. After hearing the parties, the Court observed that sine representative of the respondent has filed the reply today during the course of hearing, it requires some time for thorough examination. Hence, the case is adjourned to 09.12.2016. The parties are directed to appear before the Court on the said date alongwith their relevant record.

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17. During the hearing on 09.12.2016, the complainant reiterated his written submissions and submitted that I am not satisfied with the arguments of the representative of the respondent Bank because in the first hearing held on 26.08.2016, it has been accepted that my application has been submitted for conversion but that was late. The Bank did not give any refusal letter against my conversion application. Instead of it, they permitted me to appear in the examination in the year 2012-2013 and 2013-14. It means that it has been accepted for conversion. The conversion Policy is not implemented anywhere for promotion of Telephone Operation and special cadre. Shri Amlendu Barua was also permitted for promotion and working as Scale-I Officer in Delhi Circle who is a blind and Telephone Officer and last time policy amendment was made on 03.02.2015. According to that circular conversion was made free for ever. Circular No.PR/IR/30142 dated 28.07.1983 was based to refuse my promotion on the basis of conversion. In that Circular, Telephone Operation is not mentioned.

18. The representative of the respondent Bank submitted that the complainant had not submitted any application dated 29.06.2011, for conversion to general category. The said submission has been made by the Bank also in its reply dated 25.07.2015. The Office memorandum dated 01.08.2011 is applicable to Group 'A' or Group 'B' post and in Bank there is no such post, hence not applicable. The complaint was given chance to appear in the promotional exam for the year 2012-13 and 2013-14 erroneously but the complainant has failed to clear even the written examinations. The complainant has appeared in the promotional exam after the circular dated 03.02.2015 (without conversion) but even in the said exam, the complainant has failed to clear the written exam. As regards the case cited by the complainant of Shri Nilesh Singhal, it is submitted that Shri Nilesh Singhal was promoted to MMGS-II (Grade-II) on 30.07.2011. He was eligible for promotion to MMGS-III (Grade-III) under merit channel after 2 years 6 months. He was eligible to be promoted from January, 2014, however since, Shri Nilesh Singhal had not completed his line Assignment, he was promoted. Shri Nilesh Singhal had completed his Line Assistant on 19.06.2015, hence as per promotion policy

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for the year 2014-15, after declaration of his results, he was given promotion from back date i.e. when he was eligible to be promoted. Finally, the Bank submits that no discrimination has been done in the case of the Complainant by the Bank. No other employee who had not converted from Specialist Cadre to General Cadre was not permitted to appear in the examination for promotion year 2014-15. However Shri Yadav was permitted to appear in the promotion examination year 2015-16 for promotion to JMGS-I under specialist cadre without any discrimination as per the circular dated 03.02.2015. She further submitted that under the Act, there is no specific provision for such reservation for the promotion. Since u/s 33 of the Act talks about the reservation for the appointment in the establishment. u/s 33 of the Act. is silent about the reservation regarding promotion. Hence, no accommodation is contemplated in the Bank in their promotional policy with regard to persons with disability.

19. After hearing the parties, this Court observed that the crux of the matter is whether the complainant had given his application dated 29.06.2011 for conversion as no evidence has been filed in this Court in this regard. The complainant is directed to submit the proof that he had submitted the application dated 29.06.2011 for conversion in the Bank and the same was acknowledged by the Bank. The case was adjourned to 27.01.2017.

20. During the hearing on 27.01.2017, the complainant submitted that he is not satisfied with the statement of the Respondent because in the last hearing they totally denied for submission of his application for conversion. That is totally wrong. They did not inform him about circular which was issued for conversion before his request to appear in the examination. But after preventing him to appear in the examination, he submitted his application for conversion on dated 29.06.2011 and he was permitted next year for examination twice. In first appearing, he got 39.05 marks out of 75 marks in the year 2012-13. That was 0.5 mark is less to 40 qualifying marks. In the year 2013-14, he got 41 marks, that was clear passing marks. But he was not called for interview. As per rules, unsuccessful candidates are provided their Marks-Sheet and the candidates who are qualified, they are called for interview as in 39.5 marks, the Marks Sheet was provided to him but the marks of 41 Marks Sheet of 2013-14 was

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not provided to him. They refused him to call for interview saying he has been permitted by mistake, which has been clarified by State Bank of India many times during hearing. Mr. Amlendu Barua was promoted from Clerical to Officer grade without getting conversion from same cadre and same category. Hence Bank should follow the same rules for every candidate. According to the statement of the Bank, it is clarified that HR Department of State Bank of India, Bhopal is not taking it seriously and pretending in many ways to provide my right and ignoring the importance of PwD Act, 1995 and Court also.

21. The representative of the respondent submitted that they will to bring some additional facts of the case before the Court that Shri Lalji Yadav has alleged that he was not permitted to appear for examination in the year 2014-15 despite submission of application for conversion from Specialist Cadre to General Cadre on 29.06.2011. We have already submitted that Shri Yadav was not converted from Specialist Cadre to General Cadre. The Bank had offered him in-cadre promotion in Specialist Category from Senior Telephone Operator to Head Telephone Operator w.e.f. 01.06.2014 vide letter No.RBO-1/HR/2014-15/1000 dated 14.07.2014. Shri Yadav duly accepted the Bank's offer for In-cadre promotion in Specialist Category from Senior Telephone Operator to Head Telephone Operator on 16.07.2014. On the acceptance made by Shri Yadav, the Bank had released him additional Special pay of Rs.1380/- per month w.e.f. 01.06.2014 and presently he is drawing Special Pay-new of Rs.2,260/- per month for his In-cadre promotion in Specialist Category from Senior Telephone operator to Head Telephone Operator. Shri Yadav has suppressed the facts to the Court that he had opted for In-case promotion in Specialist Category from Senior Telephone Operator to Head Telephone Operator during 2014-15. In nutshell, they submit as under:-

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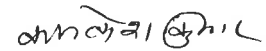
S. No..	Promotion Year	Remarks
1.	Promotion Year 2011-2012	Shri Yadav had submitted the application for conversion on 29.06.2011 with delay, whereas the examination from Clerical to Officer was held on 12.06.2011.

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2.	Promotion Year 2012-13	Shri Yadav was permitted erroneously for appearing in the examination, but has failed to qualify in the Examination.
3.	Promotion Year 2013-2014	Shri Yadav was permitted erroneously for appearing in the examination, but has failed to qualify in the Exam.
4.	Promotion Year 2014-15	Shri Yadav had opted for In-cadre promotion in Specialist Category from Senior Telephone Operator to Head Telephone Operator, hence he was not converted from Specialist Cadre to General Cadre and not permitted for appearing in examination.
5.	Promotion Year 2015-16	Shri Yadav was permitted to appear in the promotional examination for promotion to JMGS-I under Specialist Cadre, but again he has failed to qualify in the exam.

22. After having detailed hearing of both the parties Court observed that the complainant has applied for change of his cadre after expiry of the date. However, neither any information was given to the complainant by the respondent bank on the status of his application, nor any acknowledgement. The complainant could have been informed by the bank about the status of the complainant's application. It is a procedural lapse on the part of the respondent bank. Though in the year 2012-13, 2013-14 and 2015-16 the complainant was permitted to appear in the examination but he could not qualify the same. However, it is observed that the bank did not allow the complainant to appear in the examination in the year 2014-15 without giving valid reason. This is another procedural lapse on the part of the respondent organisation. However, being a procedural lapse, it cannot be considered as violation of provisions of Persons with Disabilities Act, 1995. But the respondent bank is advised to give a considerate view towards the redressal of complainant's grievance as per extent rule.

23. The case is accordingly disposed off.



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