



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.4582/1011/2015

Dated:- 04.08.2016

In the matter of:

Shri Hemant Kumar,
Association for the Rights of Disabled Persons,
BK-2/94, Shalimar Bagh, Delhi-110088
<gautammanish2011@gmail.com>

..... Complainant

Versus

Rajdhani College,
Through the Principal,
Mahatama Gandhi Marg, Raja Garden,
New Delhi-110015

..... Respondent No.1

University of Delhi,
Through the Registrar,
Main Campus, Delhi-110007

..... Respondent No. 2

Date of hearing : 14.06.2016

Present:-

1. Sh. Hemant Kumar, Complainant.
2. Dr. Sanjay Malhotra, Offg. Principal, Mr. Shri Bhagwan, Administrative Officer and Shri Rakesh K. Tripathi, Bursar, on behalf of Respondent No.1
3. Respondent No. 2 absent.

ORDER

The above named complainant, Shri Hemant Kumar, General Secretary, Association for the Rights of Disabled Persons filed a complaint dated 13.06.2015 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 the 'Act' regarding discrimination towards employment of persons with disability in Rajdhani College.

2. The complainant has submitted that a person with locomotor disability has applied for the post of Senior Personal Assistant at Rajdhani College and sent his application form by Speed Post on 20.05.2015, which was delivered by the Indian Post to Rajdhani College on 21.05.2015. It has come to their notice that the College has informed University of Delhi that no application has been received for the said post under disability category and requested to University of Delhi to change the nature of this post so that it can be filled by any other category.

3. The matter was taken up under Section 59 of the Act with the respondent vide this Court's letter dated 01.07.2015 directing the respondent to intimate action taken in the matter.

.....2/-

4. The Acting Principal, Rajdhani College vide letter No.RC/RG/22/2483 dated 21.07.2015 filed the reply. He questioned the locus standi of complainant and submitted that the complaint is not maintainable as Shri Hemant Kumar is not an aggrieved person in this matter as he himself did not send any application to their institution. He also submitted that Shri Hemant Kumar is not a bonafide advocate and, therefore, has no legal authority to represent the interest of any other person before this Court. As regards the contention of the complainant made in his complaint, he has submitted that at any stage the college asked the university to change the reservation nature of the vacancy in reference it is true that the vacancy reserved for OH on the post of Senior Personal Assistant was advertised vide corrigendum dated 06.05.2015 and one application was received. Therefore, there is no cause as the recruitment process for filling the vacancy for persons with disabilities (OH) is already in progress. He further submitted that the College is committed to provide 3% reservation for persons with disabilities as per the provisions of Section 33 of the PwD Act, 1995.
5. The complainant vide his email dated 14.08.2015 filed his rejoinder submitting that he filed the complaint in the capacity of General Secretary of Association for the rights of disabled persons and the Association is registered under the Society Registration Act, 1860 having objective "to take up effective, reasonable and lawful steps with providing the optimum solution of the desired problems of each and every disabled person under maximum efforts in negligible cost" for betterment of employment opportunities. He also submitted that their Association is providing the information to the disabled persons with guidance and promotion of PwD category regarding education, employment and other disabled issues relating to Government Departments/Universities/Colleges etc. He has, therefore, sought intervention of this Court in this matter till the final selection of appropriate candidate with adequate justice in the direction of filling the PwD (OH) reserved seat as usual relaxation at priority basis. He vide his letter dated 09.10.2015 has submitted that now the biased intention of the College is clearly reflected because College has re-advertised this post on contract basis vide Ref. No. RC/RG/113/3789 dated 05.10.2015. DoP&T vide O.M. No. 36012/39/2014-Estt.(Res) dated 25.05.2015 issued instructions regarding Special Recruitment Drive to fill up the vacancies for persons with disabilities and had fixed 01.02.2016 as the target date for issue of appointment letter to the selected candidates. He has requested for taking necessary action in the matter.
6. Assistant Registrar (Colleges), University of Delhi vide letter No. CB-II/110/Roster/Misc./PwD/453 dated 14.09.2015 filed their comments in the matter informing that Rajdhani College has already prepared the PwD vacancy based roster for Non-Teaching Group A, B, C and merged Group D in the light of Supreme Court judgment dated 08.10.2014. The College has submitted that it is committed to provide 3% reservation for persons with disabilities as per the provisions of Section 33 of the PwD Act, 1995. He also submitted that the contention of the complainant is totally incorrect. At no stage did the College ask the University to change the reservation nature of the vacancy in reference. It is true that the vacancy reserved for OH for the post of Senior Personal Assistant was advertised vide corrigendum dated 06.05.2015 and one

application was received and the recruitment process for filling the vacancy for Persons with Disability (OH) is already in progress.

7. The complaint vide letter dated 23.03.2016 has inter-alia submitted that the College has still not started the selection process after passing of more than 10 months time when the post was advertised. Initially, the College refused receiving of any such application from any candidate but later on after intervention of this Court, Indian Post and ARDP, College has admitted regarding receiving of single application form for the above permanent post. Then the College advertised this post on contract basis on 05.10.2015 till further appointment of permanent seats. He also alleged that more than five months have passed but the college has again not started the selection process on contract basis.

8. Upon considering the letter dated 21.07.2015 of respondent no. 01, letter dated 14.09.2015 of respondent no. 2 and complainant's e-mail/letters dated 14.08.2015, 09.10.2015 and 23.03.2016, a hearing was scheduled on 14.06.2016.

9. During the hearing, none appeared on behalf of the respondent No.2 nor any intimation received about their inability to attend the hearing on 14.06.2016 despite the fact that Notice of Hearing was sent on 24.05.2016 by Speed post. This Court noted with serious concern, the utter disregard shown by the respondent no. 2 by neither intimating their inability to attend the hearing nor caring to appear to explain their version of the case.

10. The complainant reiterated his written submissions and submitted that the post of Senior P.A. was advertised in May, 2015 which was reserved for OH category. One candidate had applied but the College stated that no application has been received. After giving proof from the Post Office, they accepted that the application was received. On asking, one copy of the application was again given, which was accepted by the College but no process for selection was started. Again advertisement was given on October, 2015 for filling up the post on contract basis. In response to that, single application was received. According to directions of Hon'ble Supreme Court, all the vacant posts reserved for persons with disabilities were to be filled upto 31st December, 2015 through Special Recruitment Drive but so far the post has not been filled. In other Colleges like Shivaji College, Gargi College etc. all the posts have been filled up. The Rajdhani College says that they are not getting the Expert for conducting the recruitment test.

11. The representative of the respondent No.1 submitted that the post of Senior P.A. was advertised on 08.02.2014 alongwith other non-teaching posts. As per the directions of the University, the Reservation Roster for PwDs was sent to the University and the post of Sr. P.A. was reserved for person with disability. Accordingly, a corrigendum dated 06.05.2015 to the advertisement duly approved by the Nodal Officer, PWD, University of Delhi was given in newspaper for inviting applications. In response one application from Sh. Manish Gautam was received. The College informed the University accordingly The University was requested to send the name of Expert in the field alongwith the request to send the name of person who can take the skill test of dictation and transcription. The University was again requested. In the meantime, the College advertised the post of Sr. P.A. reserved for PwD(OH) on contract basis as temporary arrangement on College

website. Two applications one from Ms. Anita and another from Mr. Manish Gautam were received. The College continued requesting to University to send the name of expert. In response to the above letter, the University asked College to send the copy of the advertisement of the post and University approval. The College vide its letter dated 11.01.2016 sent the copy of advertisement of the post and University approval. The post is still vacant and no one is working on the said post.

12. After hearing the parties and on perusal of the record placed on the file, the respondent no. 2 is directed to nominate the names of the Expert to Principal, Rajdhani College, New Delhi within 15 days from the receipt of this Order so that the recruitment process regarding filling up the post of Senior Personal Assistant (SPA) reserved for PwD (OH) category will be started and completed within next 45 days. The compliance of the Order alongwith the name, nature & percentage of disability of the selected candidate may be intimated to this Court within 15 days of joining the selected candidate.

13. The case is disposed off accordingly.



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

N.O.O.

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