



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.507/1011/2013

Dated:- 02.11.2016

In the matter of:

Secretary,
Parents' Association of Deaf Children, 480
197/1, Sahukar Channaiah Road,
II Stage, Bogadi, Mysore-570009.

..... Complainant

Versus

Kendriya Vidyalaya Sangathan (HQ), 481
Through the Secretary,
18, Institutional Area, Shaheed Jeet Singh Marg,
New Delhi-110016.

..... Respondent No.1

Date of hearing : 13.07.2016

Present:-

1. Sh. A. K. Peethambaran, Authorized Partner on behalf of the Complainant.
2. S/Shri S.S. Chauhan, Assistant Commissioner & S.K. Sharma, Section Officer, on behalf of Respondent.

ORDER

The above named complainant, Secretary, Parents' Association of Deaf Children, Mysore filed a complaint dated 27.09.2013 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 with hearing impaired persons in the recruitment of PGT and TGT posts by Kendriya Vidyalaya Sangathan.

2. The complainant has submitted that Kendriya Vidyalaya Sangathan is recruiting Post Graduate Teacher, Trained Graduate Teachers and Primary School Teachers for their various schools located in India. The total number of vacancies are 4043, out of which 59 are reserved for persons with orthopedic disability, 04 for persons with hearing impaired and 54 for persons with visual impairment. The complainant alleged that this is a total injustice with hearing impaired category as atleast 1% of the vacancies should have been reserved for them. He further submitted that in the advertisement, it has been stated that the TGT (Post code 48AE) should have working knowledge in English and Hindi but as per him in case of hearing impaired category, they should be exempted from studying more than one language.

3. The matter was taken up under Section 59 of the Act with the respondent vide this Court's letter dated 28.11.2013.

4. In response, Joint Commissioner (Admn.), KVS vide letter dated 28.01.2014 has submitted that they have already informed vide letter dated 20.12.2013 that the post of Primary Teacher,

.....2/-

Trained Graduate and Post Graduate Teachers, persons who have been disabled with one arm, one leg, blind BLV are eligible and persons who are hearing handicapped were eligible to the post of TGT(AE), Librarian and works experience teachers in KVS, as these posts have been identified for hearing handicapped persons by the Ministry of Social Justice and Empowerment, Government of India.

5. A copy of the reply received from the respondent dated 28.01.2014 was forwarded to the complainant vide this Court letter dated 14.03.2014 for his comments.

6. The Complainant vide his rejoinder dated 01.12.2014 submitted that the respondent has provided reservation of 117/4043, which accounts to 3 percent. However, the respondent has not properly distributed among the various categories of handicapped persons as per Government directive. The respondent has adhered to Government directive, as regards to the posts which have been identified for hearing handicapped persons by the Ministry of Social Justice & Empowerment. If that is the case, why have the respondent have reserved more posts for OH and VH, as is evident from the statement. The respondent should have reserved 35 posts out of 3432 for OH and 30 out of 2920 for VH. What prompted the respondent to reserve 59 for OH and 54 for VH. However, overall the respondent has reserved 1.46% for OH, 0.10% for HH and 1.34% for VH, the respondent has made reservation of over and above 1% (Government norms) to OH by 0.46% and 0.34% to VH. In case of deaf it is negative. The statistics is just being used to prove the point that injustice has been done to deaf). Why this glaring disparity. As regards Language, the complainant has stated that Deaf children are taught in their mother tongue and English will be taught as a Second Language, hence disparity crops in. Please check whether it is in conformity with the Official Language policy of the Government and it is in line with our Constitution of India. Kindly review the policy. It is therefore, requested to consider the above points raised and pass necessary orders directing Kendriya Vidyalaya Sangathan to follow the direction of the Government of India to reservation policy and request your kindnesses once again to protect the rights of hearing impaired.

7. A copy of the rejoinder dated 01.12.2014 received from the complainant was forwarded to the respondent vide this Court's letter dated 08.07.2015.

8. Despite reminder dated 06.10.2015, no reply was received from the respondent, therefore, a hearing was scheduled on 13.07.2016.

9. During the hearing on 13.07.2016, the complainant reiterated his written submissions dated 01.12.2014 and prayed before this Court for passing the necessary orders/directions to the respondent to follow the directions of the Government of India.


10. The representative of the respondent submitted that KVS has taken care of all circulars issued by DoP&T, and Ministry of Social Justice & Empowerment while publishing the advertisement of direct recruitments as per identification of posts for persons with disabilities notified by the Ministry of Social

Justice and Empowerment. The persons who are hearing handicapped, were shown eligible to the teaching posts of TGT (AE), TGT (WE) and Librarian in the above referred advertisement published in employment News dated 20-26.07.2013 as per DoP&T OM dated 29.12.2005. As such, 04 posts shown in the advertisement for direct recruitment of teachers reserved for persons with disability (Hearing Handicapped) out of 351 posts eligible, as per the eligibility criteria notified by DoP&T out of the total posts of 4043. Out of total 4043 posts, 351 posts are only eligible (TGT(AE)-115+TGT(WE)-124 + Librarian 112 = 351) for HH Category, 1% of 351 comes to 4. Accordingly KVS has rightly reserved 4 posts out of 351 posts to HH category. Moreover, KVS has constituted a committee under the Chairmanship of Joint Commissioner (Admn.) to form the policy to settle the pending Court cases/grievances pertaining to persons with disabilities. The Committee took into account the latest list of posts identified suitable for persons with disabilities circulated by Ministry of Social Justice & Empowerment vide their Notifications dated 18.01.2007, 15.03.2007 and 29.07.2013 and after examining the issue with reference to Govt. of India guidelines and made recommendation or exemption/reservation to persons with disabilities in different posts of teaching and non-teaching staff in KVS through direct recruitment. In accordance with the decision of the committee identified/found the suitable posts for persons with hearing disability through direct recruitment are Deputy Commissioner, Assistant Commissioner, Finance Officer, Administrative Officer, Technical officer (Works), Hindi Translator, Principal, TGT (Art Education), Librarian, TGT (Work Experience), Assistant, Upper Division Clerk (UDC), Lower Division Clerk (LDC), Stenographer and sub staff. The reservation quota provided for hearing handicapped candidates in the advertisement published in Employment News on 20-26 July, 2013 against the advertised post for direct recruitment is correct and as per rules. In so far as the objection raised by the complainant regarding TGT {Post Code 48 – TGT (AE)} should have working knowledge in English and Hindi but in case of hearing impaired category, they should be exempted from studying more than one language is concerned, it is submitted that in the recruitment rules approved by the Board of Governors of the Kendriya Vidyalaya Sangathan, working knowledge of English and Hindi is one of the essential qualifications for the post of TGT(AE). The said qualification is necessary for appointment as a teacher in KVS as the main objective of Kendriya Vidyalaya's is to impart the education to the transferable Central Government Employees who move on transfer from one part to the other part of the country. The condition of knowledge of both the languages is concerned, in that only working knowledge has been desired. In that no degree of any language is necessary. It is, therefore, stated that there is no discrimination in the eyes of law towards persons/candidates with hearing impaired disability done by KVS in advertisement published in Employment News dated 20-26 July, 2013 for direct recruitment.

11. After hearing the parties and perusal of the record available on the file, the Court observed that though the respondent is providing reservation of 3% for persons with disabilities in its recruitments but there is no equal ratio of VH, OH and HH. The respondent is directed to provide

equal reservation to VH, OH and HH categories of persons with disabilities in future recruitments as per DOP&T's O.M. dated 29.12.2005.

12. The case is disposed off accordingly.



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