



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. 5315/1024/2015

Dated : 27.05.2016  
Dispatch No.....

In the matter of :

Shri Suman Kumar, 083  
H-3/504, Shubhdham,  
Rajendra Nagar,  
Sector - 2,  
Ghaziabad (U.P.)

.....Complainant

Versus

084  
Central Warehousing Corporation,  
(Through Director - Personnel),  
Warehousing Bhawan,  
4/1, Sri Institutional Area,  
August Kranti Marg,  
Hauz Khas,  
New Delhi - 110 016

.....Respondent

### ORDER

The above named complainant, a person with 47% locomotor disability filed a complaint dated nil under the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, hereinafter referred to as the 'Act' for increase of 5% of the Basic Pay w.e.f. 26.11.2008 to 30.04.2012 and release of Rs.63,967/- towards Transport subsidy.

2. The complainant has submitted that he was an Ex-Sr. Asstt. Manager in Central Warehousing Corporation in Ghaziabad, U.P and was drawing double transport allowance + dearness allowance. After the IDA pattern pay scales w.e.f. 01.01.2007 perks/allowances were restricted to 40% of basic pay per month w.e.f. 26.11.2008. He was given perks at 40% of the basic pay and not allowed 5% extra Transport subsidy meant for persons with disabilities. The complainant affected worst on receipt of IDA arrear on 24.12.2014. The difference between CDA & IDA pattern on "Due & Drawn Basis", whatever he was paid as double to transport allowance + DA on the same have been recovered /taken out of his pocket, and did not pay the perks @ 45% of basic pay (paid only 40%). An arrear amount of Rs.3,34,311/- was credited to his salary account after retirement. There was a net loss of Rs.63,967/-;

3. The matter was taken up with the Director (Personnel), Central Warehousing Corporation vide this court's letter dated 26.10.2015.

4. The General Manager (Pers), Central Warehousing Corporation vide letter no. CWC/I-Trans-Subsidy Handicapped/165/Rect/15-16/431A dated 18.11.2015 stated that only four allowances have been kept outside the purview of overall ceiling of 50% allowances on the Basic Pay (in case of CWC 40% of the Basic Pay). The Transport Allowance is covered under the Cafeteria approach of allowances which are 40% of the Basic Pay implemented in the Corporation.

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5. A copy of the rejoinder dated 26.11.2015 received from the complainant has been sent to the General Manager (Personnel), Central Warehousing Corporation for its comments vide letter dated 09.12.2015;

6. The General Manager (Pers.), Central Warehousing Corporation vide its letter no. CWC/I-Transport Subsidy Handicapped/Rectt/291A dated 21.12.2015 stated that DPE vide their O.M. dated 26.11.2008 has permitted CPSEs for grant of Cafeteria allowances with a ceiling of 50% of basic pay, depending upon the paying capacity of the concerned PSU. The CWC is paying 40% of the basic pay as perks to all its Group 'A' and 'B' employees and hence ceiling perks in case of CWC becomes 40% and not 50%.

7. After perusal of the rival submissions of the parties, it is observed that the persons with disabilities are not receiving 5% additional transport subsidy as per scheme in vogue and further there is no bar as per DEP guidelines dated 26.11.2008 for allowing allowances upto 50%. Therefore, the additional subsidy of Transport allowance is a right of persons with disabilities which cannot be equated with other non disabled employees. Accordingly, the respondent is directed to revisit the matter of giving 5% additional transport subsidy to the complainant and other employees falling in the similar situation. The respondent is advised to furnish an action taken report to this Court within 45 days of receipt of this Order.

8. The case is disposed off accordingly.

(Dr. Kamlesh Kumar Pandey)

Chief Commissioner

for Persons with Disabilities