



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.5334/1011/2015

Dated: 08/12/2016

In the matter of:

Shri Manish Gautam  
Dy. Director (Legal) 9597  
Association for the Rights of Disabled Persons  
BK-2/94, Shalimar Bagh  
Delhi - 110 088

..... Complainant

Versus

University of Delhi 0598  
(Through the Registrar)  
Main Campus, Delhi - 110 007

..... Respondent

Date of hearing : 26/10/2016

Present :

1. Shri Manish Gautam, Complainant
2. Shri Anil Kumar Aneja, Nodal Officer for Persons with Disabilities, University of Delhi (Respondent)
3. Shri Saurabh Banerjee, Advocate on behalf of Respondent.

ORDER

The above named complainant has endorsed a copy of his complaint dated 08/10/2015 to 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 as Act regarding 3% reservation to persons with disabilities for the post of Assistant Professor, Department of Law in University of Delhi.

2. The complainant has submitted that University of Delhi had advertised Addendum to Advt. No.Estab IV/256/2015 dated 13/05/2015 regarding vacancies in Department of Law wherein the University had neither provided 3% reservation to persons with disabilities nor equal proportion among sub-categories of persons with disabilities i.e. OH & VH as per roster for persons with disabilities which is violation of Section 15 of DoPT's O.M. No.36035/3/2004-Estt(Res) dated 29/12/2005. He has requested for withdrawal of the said Addendum and for the fresh advertisement for recruitment of persons with disabilities under the Special Recruitment Drive after correcting the roster.

3. The matter was taken up under Section 59 of the Act with the respondent vide Court's letter dated 27/10/2015.

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4. The Respondent vide their letter No.Estab.IV/2016/43 dated 03/06/2016 submitted that -
- (a) As per the provisions of Section 33 of the Persons with Disabilities Act, 1995, 3% vacancies are to be reserved in every establishment.
  - (b) As per the definition of the 'Establishment' provided in Section 2(k) of the Persons with Disabilities Act, 1995, University as a unit deemed to be an 'Establishment' and not individual department and faculties.
  - (c) Therefore, the university's compliance of the statutory provision of 3% reservation for Persons with Disabilities is to be seen in terms of the entire University as a whole unit and not in terms of segregation of the reservation in respect of an individual departments and/or faculties because such reservation is to be provided in an Establishments and it is the University and not individual departments or faculties which qualify under the definition of an 'Establishment' in this case.
  - (d) Pursuant to the judgement of the Hon'ble Supreme Court of India in Civil Appeal No.9096/2013, arising out of SLP Civil Appeal No. 7541 of 2009 in the matter of Union of India & Anr. Vs National Federation of the Blind & Ors. and pursuant to the directions received from the UGC and MHRD for the implementation of the said judgement, the University has computed the backlog of reservation for persons with disabilities both in teaching and non-teaching cadres w.e.f. 16/07/1994 by preparing separate and fresh vacancy based rosters in respect of each of these cadres. As far as the teaching vacancies are concerned, Assistant Professor, Associate Professor and Professor have been treated as three separate cadres.
  - (e) Vacancies for persons with disabilities for various teaching posts have been advertised as per reservation points arising from the said University rosters for the three separate teaching cadres. The rosters previously maintained by the University needed to be reworked in the light of the said Supreme Court judgement and in the process of computing reservation for persons with disabilities w.e.f.16/07/1994 and those persons with disabilities who have been appointed till now had also needed to be adjusted against the reservation points arising in the newly prepared 100 points vacancy rosters for persons with disabilities.
  - (f) Only those reserved vacancies which remained after computation of reservation as per the said Supreme Court judgement and after adjusting already appointed persons with disabilities against various reserved points in the fresh rosters for persons with disabilities have been advertised in the university advertisement for the teaching posts dated 13/05/2015 Corrigendum dated 20/05/2015 and Addendum dated 21/09/2015. Corrigendum dated 20/05/2015 and the Addendum dated 21/09/2015 are not separate advertisements but rather a part of the original advertisement dated 13/05/2015.
  - (g) Further, reservation for persons with disabilities is on the number of vacancies arising in an Establishment and not on the number of vacancies advertised. Also, it is to be noted

that vacancies to be advertised for persons with disabilities arise from various reservation points of the vacancies based roster for persons with disabilities.

- (h) All reservation points arising in respect of persons with disabilities in the vacancy based roster, except those arising in respect of the department of Education and the Faculty of Music, for three teaching cadres have been utilized to either adjust those persons with disabilities already appointed in the respective cadres or have been advertised in the advertisement dated 13/05/2015 and/or its subsequent corrigendum/addendum. Persons with Disabilities, already appointed in the Department of Education and Faculty of Music have also been adjusted against some reservations in the said rosters.

In respect of the Faculty of Law, 02 orthopedically handicapped persons already appointed in the Faculty of Law have been adjusted against 02 reservation points in the University teaching roster for the Assistant Professor cadre. 01 such reservation point occurred in the Faculty of Law and 01 point occurred in the other department has been utilized to adjust the already appointed orthopedically handicapped person in the faculty of law. In exchange, 01 point occurring in Law has been utilized to adjust and already appointed visually handicapped persons from another department because the roster for the Assistant Professor cadre is of the university as a whole and not for the individual departments/faculties. After these adjustments only 01 point for the visually handicapped has remained as having occurred in law as per the university roster for the Assistant Professor cadre and the same has already been advertised. Similarly, applicable reservation points for persons with disabilities occurring in the University rosters for the Associate Professor and the Professor cadres have already been advertised. As per the present University teaching rosters, there are no more vacancies to be advertised in respect of faculty law.

5. The complainant vide rejoinder dated 12/08/2016 has inter-alia submitted that there is no other post reserved for PwD (OH) in the department due to wrong roster for persons with disabilities. He further submitted that there shall be at least 04 posts (02 posts for VH & 02 posts for OH) as per 3% reservation for persons with disabilities and requested for personal hearing in the case.
6. Upon considering the reply dated 03/06/2016 of the respondent and complainant's rejoinder dated 12/08/2016, the hearing was scheduled on 26/10/2016.
7. During the hearing on 26/10/2016, the complainant reiterated his earlier submissions and stated that University of Delhi is not following the proper roster for persons with disabilities.
8. Dr. Anil Kumar Aneja, Nodal Officer for Persons with Disabilities, University of Delhi and their advocate apprise the Court that the vacancies for persons with disabilities for various teaching posts

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have been advertised as per reservation points arising from the said University rosters for the three percent reservation for separate teaching cadres and the rosters previously maintained by the University needed to be reworked in the light of the said Supreme Court judgement and in the process of computing reservation for persons with disabilities w.e.f.16/07/1994 and those persons with disabilities who have been appointed till now had also needed to be adjusted against the reservation points arising in the newly prepared 100 points vacancy rosters for persons with disabilities.

9. Upon hearing both the parties, the case is disposed off with the following directions to the respondent:-

- (i) Prepared the Reservation Roster w.e.f. 01/01/1996 as per DOP&T's instruction.
- (ii) Compute the backlog of vacancies and fill the vacancies by conducting Special Recruitment Drive in a time framed manner.
- (iii) Advertisement should be made as per para 25 of DOP&T's OM No. 360/3/2004-Estt.(Res) dated 29/12/2005 and subsequent OMs issued by DoP&T from time to time in this regard.
- (iv) The whole exercise will be completed within 180 days from the date of receipt of this Order.



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