



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.5524/1021/2015

Dated:- 03.11.2016

**In the matter of:**

Shri Sandeep,  
S/o Shri Kishan Chand,  
D-1463,  
Panipat Refinery Township, 0472  
P.O. Panipat Refinery,  
Panipat-134140 (Haryana)  
Email: <sandeepgoyaliocl@gmail.com

..... Complainant

**Versus**

Indian Oil Corporation Limited,  
(Through Chairman),  
3079/3, Sadiq Nagar, 0473  
JB Tito Marg,  
New Delhi-110049.

..... Respondent

**Date of hearing : 12.07.2016**

**Present :**

1. Shri Sandeep, Complainant..
2. S/Shri Udit Jain, DGM (HRD), IOCL and Abhishek Kumar, SM (HRD), IOCL, on behalf of Respondent..

**ORDER**

The above named complainant, a person with 55% locomotor disability filed a complaint dated 21.11.2015 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 as the 'Act' regarding his promotion from Grade C to Grade D.

2. The complainant has submitted that presently he is working in Grade C (Dy. Manager (CS), at Indian Oil Corporation, Bhiwadi, Rajasthan. His promotion to Grade D is due since 31.03.2013. He has been suspended thrice during the last three years. The officers of same batch and qualification have been promoted whereas he was denied the promotion. He is professionally qualified and has done MBA. He has been working in field locations throughout his career in IOL. He has worked even at declared 'difficult location'. He has an unblemished service record in Indian Oil Corporation and has been appreciated by the Chairman for his 'valuable contribution'. He further submitted that with positive remarks the APAR is downgraded without giving any reasons. The complainant has requested his promotion to Grade D w.e.f. due date, i.e. 31.03.2013.

3. The matter was taken up with the respondent vide this Court's letter dated 01.01.2016.

4. The General Manager (HRD), IOC Limited vide letter No. HRD/28 dated 25.01.2016 has stated that the complainant joined the Corporation in the year 2002. After training initially he was

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posted as Operation Officer at Baitalpur Depot for two years as Field Consumer Sales Officer at Sonepat for three years and as Assistant Manager (Consumer Sales) at Hissar for five years. The complainant was promoted in the year 2010 and he is eligible for promotion from Grade C to Grade D from 2013 onwards. They further stated that IOL has a transparent promotion policy which takes Performance and Potential into consideration while arriving at promotion related decisions. The complainant had appealed against the final appraisals for each year w.e.f. 2010-11 which were reviewed by Appellate Authority and the decision of Appellate Authority against his Appeals have been conveyed by them to the complainant. It was further stated that the complainant could not make the grade because other candidates were found more suitable than him.

5. A copy of the reply dated 25.01.2016 received from the respondent has been forwarded to the complainant for his comments.

6. The complainant vide his rejoinder dated 05.02.2016 (wrongly written as 05.02.2015) has submitted that the respondent has not mentioned in the reply that his posting in IOL are field posting throughout his career spread over three States. During his brief stay of two years in Operation Depot, the complainant need to climb vertical tanks, work at Railway siding for unloading of Railway rakes etc. He was always posted in field locations during his thirteen years of the service. He has requested this Court to direct IOL to share rating points on II rating parameters like KRA. He further stated that IOL has failed to elaborate reasons or ground on which representation for revision of rating have been turned down by them or the basis of evaluation of representation by the authority as appointed by them.

7. After considering respondent's reply dated 25.01.2016 and complainant's rejoinder dated 05.02.2016 (wrongly written as 05.02.2015), a hearing was scheduled on 12.07.2016.

8. During the hearing on 12.07.2016, the complainant reiterated his written submissions and submitted that Internal Departmental Committee may be formed to look into the evaluation of the plaintiff during the period. Directions for relaxing norms for training/deputation postings etc. may be provided to Indian Oil. The University Grants Commission (UGC) provides the relaxations to disable candidates in the UGC-NET of upto 5%. Similar relaxation may be provided.

9. The representative of the respondent submitted that the complainant was eligible for promotion w.e.f. from DPC 2013 and was considered along with other eligible candidates for promotion from Grade 'C' to Grade 'D' in the DPC for 2013, 2014 and 2015 as per the extant promotion policy. However, the fact that the officer could not make the grade can only be attributed to the fact that other candidates were found more suitable as compared to the complainant. He further submitted that Indian Oil diligently follows laid down guidelines and policies, without discriminating on the basis of caste, sex, religion, disability, etc. While emphasizing that the complainant was not denied promotion due to his disability, it is submitted that review processes available in terms of representation in the APAR system have been diligently followed and exhausted and there is no provision available in the system for any further review of the decision of DPC.

10. As per DoP&T's O.M. No. 21011/1/2005-Estt.(A)(Pt.II) dated 14.05.2009, The full APAR including the overall grade and assessment of integrity shall be communicated to the concerned officer after the Report is complete with the remarks of the Reviewing Officer and the Accepting Authority wherever such system is in vogue. Where Government servant has only one supervisory level above him as in the case of personal staff attached to officers, such communication shall be made after the reporting officer has completed the performance assessment. The concerned officer shall be given the opportunity to make any representation against the entries and the final grading given in the Report within a period of fifteen days from the date of receipt of the entries in the APAR. The representation shall be restricted to the specific factual observations contained in the report leading to assessment of the officer in terms of attributes, work output etc. While communicating the entries, it shall be made clear that in case no representation is received within the fifteen days, it shall be deemed that he/she has no representation to make. If the concerned APAR Section does not receive any information from the concerned officer on or before fifteen days from the date of disclosure, the APAR will be treated as final.

11. As per O.M. No.20(10)/99-DPE-GM-Part-2014FTS-1517 dated 25.02.2015 of Department of Public Enterprises, the issues of applicability of instructions regarding reservation to SC/ST/OBC/Disability & Ex-servicemen as issued by Government Ministries/Departments to CPSEs are reviewed by Department of Public Enterprises (DPE) and it was found that in general instructions on reservation matters as issued by Government departments are extended to CPSEs as mutatis mutandis. As such, it is decided that instructions as issued by Government in respect of reservations to SC/ST/OBC/Disability & Ex-servicemen are to be taken as mutatis mutandis extended to all the CPSEs concerned unless specifically specified otherwise by DPE.

12. As per DoP&T's OM No.36012/20/2004-Estt. (Res) dated 27.09.2004, there is no reservation in promotion in Group A & B posts for persons with disabilities but DoP&T vide its 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.

13.. This Court also observed from the respondent's Promotion Policy – 2013, copy of which was submitted by the representative of the respondent during the hearing that a Common Promotion Policy was prepared without providing relaxation to employees with disabilities who have some limitations in performing their duties as compared to abled employees. Since Department of Personnel & Training vide its Office Memo. Dated 31.03.2014 has issued guidelines for providing certain facilities in respect of persons with disabilities who are already employed in Government for efficient performance of their duties to all the CPSEs and the same guidelines were forwarded by the

Department of Public Enterprises vide its Office Memo. No. 6(09)/2006-DePE (SC/ST Cell) dated 07.04.2014. Recently, Department of Personnel & Training vide its O.M. dated March, 2016 has made certain schemes for the benefit of its employees with disabilities. The respondent is directed to reconsider the Promotion Policy and make some relaxation for employees with disabilities. As there appears no violation of the Government instructions in the matter, no further directions can be given to the respondent and the case is disposed off.



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