



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.: 6060/1024/2016

Dated: 10.08.2017

Dispatch No. /.....

In the matter of :

..... Complainant

Ms. Uma Shah,
Debinagar (Sathirgoli), R2719
Ward No. 06,
New Town,
P.O. and Dist. : Alipurduar,
West Bengal - 736 121

Versus

..... Respondent

The Air Officer Commanding
16 Wing AF, R2713
C/o 99 APO

Date of Hearing : 02.06.2017

Present :

- 1) Mrs. Uma Saha, Complainant
- 2) Shri Pawan Tiwari, Dy. Director and Fg Offr Nupur Vashisth Malik, on behalf of Respondent.

ORDER

The above named complainant, a person with 50% locomotor disability has filed a complaint dated 08.03.2016 under the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 hereinafter referred to as the Act, regarding non acceptance of her request for internal posting on medical grounds and deprivation of rights of disabled person.

2. The complainant submitted that she is a permanent Civilian employee of Indian Airforce, posted at 16 wg, AF since March 1993. Due to a massive Cerebral Vascular accident (CVA), left side of her body was completely paralyzed since 14.06.2013. After undergoing treatment for almost one year, she joined the office on 12.06.2014. She was not sanctioned the disability leave during her treatment and hospitalization period. She requested her office orally to post her outside the technical area so that she can avail the service of car, but she was transferred to the Logistic Section on 28.08.2014. She submitted that the new place of posting had more challenges than were had at the old one. She was unable to avail public transport from Alipurduar and had to

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(कृपया भविष्य में पत्राचार के लिए उपरोक्त फाइल/केस संख्या अवश्य लिखें)
(Please quote the above file/case number in future correspondence)

hire taxi to commute from Alipurduar to AF Stn Hasimara which is about 100 Kms to and fro daily at an exorbitant cost. Since she cannot travel without assistance of an escort, she requested AOC (Head of the 16 Wing) to keep a supernumerary post at MCO, New Alipurduar Rly Station or any other IAF Office suitable for her. She also received a reply from her office stating that they are not in a position to provide replacement for her posting. She further submitted that SBI Bazar Branch, Alipurduar turned down her application for car loan.

3. The matter was taken up with the respondent under Section 59 of the Persons with Disabilities Act, 1995 vide letter dated 28.03.2016;

4. The C Adm O, 16 Wing, AF vide their letter no. 16W/1909/1/37518/PC dated 27.05.2016 submitted in the matter that the complainant was explained at length the security considerations of their station and the various checks and procedures being followed to avoid any breach of security. She was advised to keep a permanent driver and got a visitor's pass made for her through the security section. In case of non availability of a permanent driver, she was given the freedom to have the driver to drop her at her place of duty every day in the morning and wait outside AF Campus area along with the vehicle. She then applied for change of section and the same was approved by Air Officer Commanding of the Base. The complainant verbally confirmed that she had never applied for Disability Leave, Double TPA, Special Casual Leave and rebate in income tax and it was wrongly mentioned in her application dated 08.03.2016. The Respondent submitted that from 14.06.2013 to 24.05.2016, she took various types of leave on 61 occasions which amounted to a total of 539 days out of 1095 days. They stated that this clearly implied that there had been no wrong doing on the part of the administration. The Respondent submitted that as regards her application for posting to AFS MCO, New Alipurduar, the requisite forms were completed and the case was being processed. Regarding complainant's car loan from SBI, no one in the Civ Adm Section or any other section has given any adverse report to the Bank. It was further stated that the Station had one Group B civilian employee (Shri D.R. Paladhi, SSS) who is a cancer patient since last two years and one Group C civilian employee (Shri U.K. Paswan, Safaiwala) who is also paralysed in right

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foot. Both these individuals have been receiving disability leave as well as other benefits due to them as per their disability. A copy of the respondent's letter dated 27.05.2016 was sent to the complainant for her comments vide this court's letter dated 10.08.2016 and 07.09.2016.

5. The complainant vide her rejoinders dated 31.08.2016 and 15.09.2016 submitted that her 'interview' was held in presence of 3 officials against whom she is seeking relief. As she is a patient of Cerebral Vascular accident and due to the CVA, under pressure condition she feels incapable to understand the questions put before her and becomes nervous. She submitted that had she been informed before hand, she could have brought her kin. The management's version that she did not apply for disability leave is not true. She further submitted that the provision of CCS (CCA) leave rules is not applied to her disability and it seems to her that she was debarred from equal opportunities, protection of Rights and full participation of Rights of Persons with Disabilities, Act. She was informed that she was referred to AIIMS for self-treatment but the management wrongly approved her leave as Child Care Leave.

6. Upon considering the respondent's reply dated 27.05.2016 and complainant's rejoinder dated 31.08.2016, a personal hearing in the matter was scheduled on 02.06.2017.

7. The complainant reiterated that she should be posted at MCO, Hasimara, which is near to her residence. She may be promoted to her next post as per the Rights of Persons with Disabilities Act, 2016. She requested to consider conversion of her Disability Leave and also to give rebate in Income Tax.

8. The representative of respondent submitted that the complainant had raised three major issues.

- 1) Grant of Disability Leave
- 2) Posting to MCO, Alipore Dwar and
- 3) Grant of Transport Allowance at double the normal rate.


As regards, the grant of Disability Leave, no such leave was applied by the complainant. The MCO, Alipore Dwar is under the administrative control of Army Head Quarters. Therefore, the posting to Alipore Dwar is not possible by Air Force authorities since

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the same is not under the Air Force. As regards Transport Allowance, it is already been granted to the complainant. Presently the complainant has been posted in the Education Section, outside the Technical Area which is nearer to the main gate.

9. After hearing the versions of the complainant and Respondent, the Court observed that though there seems no violation of any Rights of Person with Disabilities, the Respondent needs to be more sensitized towards people with disabilities.

10. The case is accordingly disposed off without any direction to the respondent


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