



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.6114/1021/2016

Dated:- 21.03.2017

In the matter of:

Shri Avadh Narayan Yadav,  
294D, Pocket C,  
Mayur Vihar Phase II,  
Delhi - 110 091

D 810

..... Complainant

**Versus**

Competition Commission of India,  
(Through the Secretary),  
The Hindustan Times House,  
18-20, Kasturba Gandhi Marg,  
New Delhi-110001.

D 811

.... Respondent

Date of hearing : 01.02.201

Present :

1. Shri Avadh Narayan Yadav, Complainant..
2. S/Shri S.K. Bhadai, CCI, S.K. Bhadauria, Office Manager, CCI alongwith Shri Kunal Sharma, Advocate, on behalf of Respondent..

**ORDER**

The above named complainant, a person with 67% locomotor disability filed a complaint dated 21.03.2016 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 injustice and discrimination on promotion at his work place.

2. The complainant has submitted that he has completed his five years in the post of Assistant Director in June, 2015. His next promotion to the post of Deputy Director (IT)/Deputy Director (CS) is due. The CCI made certain modifications in the recruitment rules on 04.06.2015. Due to this modification, he will not be considered to the post of Deputy Director (CS). His application for the post of Joint Director (IT) on deputation basis in June, 2012 has not been considered by CCI. In 2013, he again applied for deputation post in SDMC. Due to incomplete APAR for the year 2012-13, his application was not considered. CCI refused to forward his application for a deputation post in ITPO in July, 2015. The complainant was also not considered for promotion in DPC held in December, 2015. The complainant has listed his following prayers:-

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- (i) Revision to the Recruitment Rules through notification dated 04.06.2015 GSR 458(E).
- (ii) Equal and fair opportunity in promotion by not providing undue extension to the post of DD(IT).
- (iii) DPC should be constituted to fairly undertake promotion of direct recruits in the IT Division.

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3. The matter was taken up with the respondent vide this Court's letter dated 30.05.2016.

4. The respondent vide letter No.I-114/PF/CCI-2010/10914 dated 14.07.2016 has stated that in June, 2015, the complainant has completed five years of required service for his next promotion to the post of Deputy Director (IT)/Deputy Director (CS). In June, 2015 itself, CCI made some modifications in its Recruitment rules as a result of which the complainant was denied his promotion to the post of Deputy Director (CS), but other junior officers have been promoted. In view of the narrow promotional prospects available in the Information Technology stream, the complainant had applied for the post of Joint Director (IT) on deputation basis in June, 2012, but CCI did not consider his application for the post. The CCI invited applications for filling up the post of Joint Director (IT) on deputation basis on 31.07.2012. The departmental officers in the feeder category who, according to provisions in the notified Recruitment Rules, are in the line of promotion, cannot be considered for deputation to this post and was informed accordingly by CCI. In the year 2013, the complainant had applied for deputation in South Delhi Municipal Corporation (SDMC), though the application of the complainant has been forwarded by CCI, the same could not be considered due to incomplete of APAR for the year 2012-13. The complainant had applied for the post of Additional Director (IT) in the office of SDMC. Even though the eligibility criteria of service is five years of service, the complainant had four years of service, but his application was forwarded to SDMC by the Respondent. The SDMC never requested for the APAR of the complainant. Respondent further submitted that the contention of the complainant that he was not considered due to incomplete APARs is not true. In July, 2015, the complainant had applied for deputation post in ITPO which the CCI refused to forward.

5. The complainant vide his rejoinder dated 16.08.2016 has submitted that he is being subjected to regular harassment. He is being hindered from performing his duties and discharging his responsibilities towards his family. He has been mentally harassed, intimidated, unfairly treated, discriminated and injustice meted out in the case of his promotion, deputation opportunities and leave etc. The complainant has requested CCPD to implement (i) Revision to the Recruitment Rules through Notification dated 04.06.2015 GRS 458(E) must be set aside; (ii) Equal and fair opportunity in promotion be provided to him. Towards this a DPC should be constituted to fairly undertake promotion of direct recruits in the IT Division; (iii) Protection from constant and debilitating harassment at work place and (iv) His dignity be restored and false charges be withdrawn. The complainant vide his e-mail/letter dated 15.09.2016 has submitted that the complainant has been subjected to regular and systematic harassment at the workplace, since filing of the application in this Court. He is repeatedly being denied leave and has been directed to curtail leave.

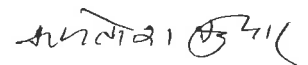
6. Upon considering respondent's reply dated 14.07.2016 and complainant's rejoinders dated 16.08.2016 and 19.09.2016, a hearing was scheduled on 01.02.2017.

7. During the hearing on 01.02.2017, the complainant reiterated his written submissions and prayed that direction may be issued that all discrimination and harassment against him cease. Direction to initiate criminal proceedings and disciplinary proceeding against S/Shri Anil Kumar Bhardwaj and Sourish Behera. The amendment to Recruitment Rules be set aside and he may be promoted. The Disciplinary proceedings against him be quashed.

8. The representative of the Respondent submitted that the Complainant's allegations that he was not provided training or a blower, have been raised for the first time in the hearing and not been raised in the complaint. He was granted leave on the last date, as at that time, there was insufficient staff available with the Respondent. The allegations of assault are not a subject matter falling within the jurisdiction of this Court. The change in the service rules, apply to all employees irrespective of the stream of service they are currently in, whether suffering from any physical handicaps or not, and therefore, there is no issue to be determined by this Court. The Complainant's allegation of not being sent on deputation is incorrect as so far as deputation for the post of Joint Director (IT) in CCI is concerned, it is submitted that the Complainant not eligible for deputation within the organization as he is already serving in CCI. The Complainant's application for deputation in SDMC was sent but no further inquiry was received from SDMC. The Complainant was not sent for deputation in ITPO as the Respondent had a staff shortage and there were only four officers in his department at that time. So far as the issue of extension of tenure of the officer on deputation is concerned, it is submitted that the candidate was performing well and it was considered fit to extend his tenure. At any rate, extension of the tenure did not rule out the possibility of promotion of the Complainant. On the contrary, the Complainant was No.2 in the seniority list at that time and therefore would not have been promoted in any case.

9- After hearing the parties and perusal of the record, the Court observes that there is some discrimination on the part of the respondent. Therefore, the Respondent is advised to act in a humanitarian way with the complainant and on his dignity. It may also be ensured that persons with disabilities should not be deprived of their legitimate rights.

10. The case is disposed off.



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