



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.: 6156/1122/2016

Dated: 14.07.2017  
Dispatch No.....

In the matter of :

Shri Indu Bhushan Bali  
VPO Jourian  
Tehsil Jourian  
Jammu – 181 202

R 2242

- Complainant

Versus

Dr. Ram Manohar Lohia Hospital  
(through the Medical Superintendent)  
Baba Khark Singh Marg  
New Delhi

R 2243

- Respondent No.1

Safdarjung Hospital  
(Through the Medical Superintendent)  
Ring Road, Opposite AIIMS Hospital  
Ansari Nagar East  
New Delhi – 110 029

R 2244

- Respondent No. 2

Sashastra Seema Bal  
(Through the Director General)  
Sashastra Seema Bal Force Headquarters  
East Block – V, R.K. Puram  
New Delhi - 110 066

R 2245

- Respondent No. 3

Date of Hearing : 02.02.2017, 20.03.2017 & 15.06.2017

Present :

1. Complainant - Sh. Indu Bhushan Bali & his son Sh. Tarun Bali
2. Respondent No. 1 – Dr. Smita N. & Sh. Surender M.R.O., Dr. RML Hospital
3. Respondent No. 2 – Dr. Rajesh Rastogi, Deptt. of Psychiatry, Safdarjung Hospital
4. Respondent No. 3 – Sh. Ravinder Kumar, Section Officer, O/o DG SSB

ORDER

Sh. Indu Bhushan Bali filed a complaint dated 30.05.2016 in the Court of 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 his disability.

2. The matter was taken up with the Medical Superintendent, Dr. RML Hospital and Safdarjung Hospital respectively vide this Court's letter dated 26.08.2016 followed by reminder letter dated 04.10.2016.

Contd. on pg/2

3. VMMC & Safdarjung Hospital vide letters dated 05.09.2016, 08.09.2016, 15.09.2016 and 07.10.2016 has informed that Shri Indu Bhushan Bali was sent to Safdarjung Hospital for medical examination in pursuance of J&K High Court order dated 30.03.2001. Shri Indu Bhushan Bali was examined by a medical board and the medical examination was done by the duly constituted Board on 14.07.2001 and in their report the dismissal of service was recommended. The report which was issued in pursuant to the court order was not a Disability Certificate but a medical examination report.
4. Head Accident & Emergency Services, & Officer/I/C, Complaint & Grievances, Post Graduate Institute of Medical Education and Research vide letter dated 01.10.2016 has informed that the records of OPD case sheets, registration books, patient medical records is retained for a period of three years and records for medico legal cases is kept for ten years as per Dte. G.H.S. order dated 10.02.2014. Sh. Indu Bhushan Bali was requested to attend the Medical Board for Medical Examination on 18.06.2014. However he failed to appear before the board. Moreover, if a person desire so, he may approach to Dte. G.H.S. with a request for getting the same done through another hospital like Safdarjung Hospital or LHMC for examination.
5. The complainant vide his rejoinder dated 12.10.2016 and 19.10.2016 has disagreed with the replies filed by the respondents Hospitals.
6. After considering the versions of the parties, the case was listed for hearing on 06.01.2017 and thereafter re-scheduled for 02.02.2017.
7. During the hearing the complainant was not present, though he reached the Court after the hearing was over. The Representatives of Respondent no. 1 submitted that the complainant was examined in Dr. R.M.L. Hospital in the year 2000 and the medical information in respect of the complainant was sent to Director General, Sahastra Seema Bal, New Delhi on 17.05.2000. As of the records, all the reports have been destroyed and, therefore, further details about the case cannot be submitted. In 2014 Shri Indu Bhushan Bali was regularly given repeated dates to present himself before the Medical Board, but he failed to appear. From Oct. 2013 Shri Bali regularly applied for his medical records to the CPIO, Psychiatry, MRD, Appellate Authority Dr. R.M.L. Hospital and Central Information Commission. In all fora he was told that the medical records for 2000 are no longer available. They submitted that these are the facts of the case available with them. Representatives of Respondent no. 1 requested the Court to exempt them from appearing in future hearings.

8. During the hearing the representatives of Respondent no. 3 vide their written submission dated 04.01.2017 submitted that the complainant was appointed in SSB as a Senior Field Assistant (Medic) on 05.12.1990. He became a patient of "Paranoid Schizophrenia" during his service in his short span of nine years of service. He remained absent from duty for more than 03 years. Finally, when he did not resume duty, Dr. Ram Manohar Lohia Hospital, New Delhi was requested to constitute a Medical Board for his Medical examination and opinion thereof. Dr. Ram Manohar Lohia Hospital examined him and diagnosed him as suffering from the case of "Paranoid Schizophrenia". It was also declared that due to the chronic nature of the illness and resulting disability, he is not fit to continue in service. On the basis of recommendation of the Medical Board, he was relieved from service w.e.f. 20.08.2000. He was further reviewed by Medical Board of Safdarjung Hospital as per direction of Hon'ble High Court of Jammu and Kashmir. The complainant had filed a Court case in the Hon'ble High Court of Jammu and Kashmir vide which he prayed for disability pension. The Hon'ble High Court vide their Judgement Order dated 19.09.2006 allowed the writ and directed to grant the disability pension to the complainant. Against the above Judgement, an LPA (SW) No.17/2007 was preferred by Sahastra Seema Bal in the Hon'ble Court of Jammu and Kashmir and the said appeal was disposed of on 03.04.2008. The operative portion of the said Judgement Order dated 03.04.2008 is reproduced below:-

" We are of the opinion that the claim raised by the petitioner for disability pension has to be considered by the competent authority in accordance with rule, since disputed questions of facts are involved.

In the facts and circumstances, we set aside the order of the learned Single Judge, leaving it open to the petitioner to make a comprehensive representation, if so advised, to the competent authority. It is for the competent authority to consider the claim of the petitioner in accordance with the rules."

9. Accordingly, the complainant made a representation for grant of post retirement benefits as per the direction of Hon'ble High Court of Jammu and Kashmir and after considering the complainant's representation, he was granted invalid pension w.e.f. 20.08.2000 vide Pension Payment Order No.248860901255 dated 21.05.2009. On request of the complainant, he was advised on five occasions in the past to appear before the Medical Superintendent, Dr. R.M.L. Hospital New Delhi, but he has not appeared before the Medical Superintendent so far. Representatives of Respondent No. 1 further stated that they have also requested the Commission to direct the complainant to appear before the Medical Board of his Department (SSB) for redressal of his grievances. However, he has also failed to report before the Department till date. They submitted that the complainant has made 47 (forty seven)

complaints so far on one pretext or other through different channels. On each occasion, Sahastra Seema Bal well attended the representations of the complainant and suitably replied him from time to time. His representations on the issue of percentage of disability for grant of constant Attendance Allowance and reinstating him in service have already been investigated along with other issues of service matter by the Hon'ble High Court of Jammu and Kashmir, Court of CIC and Court of the Chief Commissioner for Persons with Disabilities and disposed of the matter in favour of the Department, i.e. Sahastra Seema Bal.

10. After hearing, it was decided to exempt Respondent No.1 from appearing in future hearings in the case, but since the complainant attended this Office after the hearing and insisted that the Respondent No. 1, should be present in all future hearings, the Court advised the Respondent No. 1 to be present in the scheduled hearings in this Case. The Court took serious view of the fact that no Representative of Respondent No. 2 was present during the hearing nor any intimation was received about their inability to attend the hearing despite the fact that notice of hearing was sent on 26.12.2016 through Speed Post. The case was rescheduled for hearing on 06.03.2017 at 14.00 Hrs and again re-scheduled for 20.03.2017 at 14.00 hrs.

11. During the hearing, the Chief Commissioner for Persons with Disabilities asked the complainant to intimate about his complaint. The complainant explained his complaint in detail and narrated the ordeal he faced at the hands of his employer i.e. Sahastra Seema Bal.

12. The representatives of the three respondents submitted their version of the matter as under:-

- I. Shri Surender Singh, Medical Record Officer on behalf of Respondent No.1, i.e. Dr. Ram Manohar Lohia Hospital submitted that he is appearing on behalf of Dr. S.N. Deshpande, HoD, Psychiatry as she was out of station due to pre-fixed programme. Dr. Deshpande herself appeared before the Court on 02.02.2017 and her statement was recorded and she was discharged. However, again she was summoned by the Court to appear because the complainant was not present on that day.
- II. Dr. Manushree Gupta, Assistant Professor on behalf of Respondent No. 2 i.e. Safdarjung Hospital appeared on behalf of Shri Rajesh Rastogi who was on leave. He submitted that it has already been submitted vide their letter dated 05.09.2016 that the medical examination of Shri Indu Bhushan Bali was conducted on 14.07.2001 in their hospital and it no where mentioned for dismissal of complainant's service. The report which was issued in pursuant to Court's order was not a disability certificate but a medical examination report.


III. Shri P. Namgial, Asstt. Director on behalf of Respondent No.3 i.e. Sashastra Seema Bal submitted that they have nothing to do with the fake medical certificate. They have nothing more to say in the matter.

13. After hearing all the parties, Chief Commissioner for Persons with Disabilities directed Respondent No.3 i.e. Sashastra Seema Bal for medical examination of the complainant regarding his disability through All India Institute of Medical Sciences(AIIMS), New Delhi within one month from the date of hearing. The matter was fixed for next date of hearing on 03.05.2017 at 16.00 hrs.

14. Respondent No. 3 (Assistant Director(Pers-III), O/o the Director General, SSB) vide their letter dated 01.05.2017 has intimated that as per the direction of this court, a reference has been made with the Superintendent of All India Institute of Medical Science (AIIMS) vide their office letter dated 21.04.2017 to conduct the medical examination of the complainant i.e. Sh. Indu Bhushan Bali regarding his disability. However, no reply has been received from the side of AIIMS as yet. Therefore, the date of next hearing scheduled on 03.05.2017 in the case may kindly be postponed for at least one month thereby enabling their office to liaise with the Medical Superintendent of AIIMS for early medical examination of the complainant. On the said request of Respondent No. 3, the hearing in the matter was rescheduled for 15.06.2017.

15. On 15.06.2017, the matter was heard by this Court and whereas the original report regarding medical examination of complainant by the Medical Board constituted at AIIMS was placed on record. The opinion of Medical Board read as "Currently Mr. Indu Bhushan Bali does not have any psychopathology. At present, he has no disability, was also brought for the consideration of this Court during the said hearing.

16. In view of the opinion of the Medical Board constituted at AIIMS, which clearly mentions the conclusive opinion of the Board that the complainant has no disability at present, the complaint has no locus Standi to seek relief/redressal of his grievance, if any from this Court since this Court exclusively deals with the matters relating to persons with disabilities only. The matter is disposed off accordingly with the advise to Respondent No. 3 to re-imburse the claim of TA/DA relating to attending of the said Board proceedings by the complainant at AIIMS as per rules.

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