



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.: 6777/1023/2016

Dated: 03.07.2017
Dispatch No.....

In the matter of :

Shri Rameshraj C.N.,
Technical Assistant Grade-1,
SVT Deptt.,
Central Manufacturing Technology Institute (CMTI),
Tumkur Road,
Bengaluru – 560 022

.....Complainant

Versus

Central Manufacturing Technology Institute (CMTI),
(Through Director-In-charge)
Tumkur Road,
Bengaluru – 560 022

.....Respondent

Date of Hearing : 15.03.2017 and 21.02.2017

Present :

1. Complainant exempted from appearing in the hearing
2. Shri Venkatachalam G, Sr. Admin Officer, CMTI—On behalf of Respondent.

ORDER

The above named complainant, a person with 55% locomotor disability filed a complaint dated 09.08.2016 under the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, hereinafter referred to as the Act, regarding unfriendly environment and discrimination on the basis of disability;

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2. The complainant submitted that he is working as Technical Assistant Grade-1 with Central Manufacturing Technology Institute, Bengaluru w.e.f. 26.06.2013. There is no facilities to the employees with disabilities working in his establishment. There is no ramps, railings for easy movement of the disabled persons. He has represented this to his establishment but no steps were taken by the management in this regard. He had to complete the probation period facing all these hindrances. Despite these odds and putting in his best efforts, his probationary period has been extended for six months without providing any reason for this extension. All the 23 employees were confirmed except the complainant. The complainant gave an application seeking photocopies of appraisal reports which his establishment turned down but instead allowed him to examine the contents of the appraisal report. The grading were 'good' and 'very good' in the

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appraisal report, the comments of the reporting officer was 'Appriasee can be confirmed'. The comments of the HOD/JD was 'The Appraiser performance is good in developing software, hence he may be confirmed. The complainant submitted that the probation was deliberately extended without any justification. He gave representations to his Director about these discrepancies, but he did not receive any reply from the management regarding this. He has requested this court to direct the authorities to confirm his probation with retrospective effect and to put in place differently abled friendly environment.

3. The matter was taken up with the respondent under Section 59 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, vide this Court's letter dated 30.08.2016 followed by reminder dated 13.10.2016.

4. The Respondent vide letter no. Director/1891/2013 dated 28.09.2016 stated as regards the unfriendly environment for persons with disabilities, CMTI always stood for the cause of persons with disabilities and they are generally taking care of the needs of the persons with disabilities. CMTI has also taken all measures for the welfare of the persons with disabilities. The Respondent submitted that a Committee has been constituted with the disabled employees representative in the committee. The committee suggests improvements of facilities if any provided. Accordingly such facilities are being provided. Railings and ramps were installed for easy movement of employees with disabilities. An exclusive parking area near to the reception/entry point has been made for the convenience of persons with disabilities. Permission has been granted for persons with disabilities to move in their vehicles near to the working spot. The employees with disabilities have been given additional permission to attend the office late by one hour at once or half an hour twice in a month. They have been granted additional Casual Leave and provided double transport allowance as per the law. The employees with disabilities were being encouraged to participate in competitions and games and prizes were awarded to the participants to encourage and also to create an enthusiasm in them. They were given preference in allotment of residential quarters. Special Recruitment Drive for persons with disabilities was done to fill the vacant posts. The Respondent further stated that the complainant was appointed as a Technical Assistant Trainee w.e.f. 26.06.2013. The Training period was for two years. Confirmation in the appointed post is made on successful training. The Respondent submitted that other trainees training period were also extended as they had not successfully completed the training. The complainant is not alone as he has mentioned in his representation. The complainant was confirmed in the post w.e.f. 23.12.2015. There is no deprivation of rights of persons with disabilities in CMTI as stated by the complainant in his representation. The Respondent submitted that the common problem

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cannot be combined with the personal/individual related service matters. Both needs to be addressed separately. The Respondent further stated that CMTI adheres to the Guidelines/instructions for the welfare and protection of rights of persons with disabilities.

5. The complainant vide his rejoinder dated nil submitted that the Respondent's contention that he has mixed two issues is not correct. He submitted that he has only such issue which have arisen because he is a person with disability and it is clear discrimination on that ground. He was facing severe inconvenience due to unfriendly environment in his establishment since he joined during June 2013, but the management of his establishment took the initiative of forming a Committee to look after the problem only after several months during the month of March 2016. He was initially allotted office in the first floor. Then he was shifted to a ground floor room and then again he was shifted to hydraulic clear room laboratory where he was exposed to hazardous chemicals with affected his health. The complainant submitted that the Respondent has stated in their reply that they have provided railings and ramps facilities in the institution and have annexed certain photographs. He submitted that the photographs annexed pertains to another building, which he do not access. In fact, the photograph showing the railings pertains to the canteen. He is made to use the canteen without the ramp. The auditorium where the prize distribution ceremony and other events/functions are held does not have ramp/railing facility. On several occasions, he was deprived from receiving the prize/s as he could not climb up on to the dais. He further submitted that his probation period was extended arbitrarily without providing any reason for the same.

6. Upon considering the considering respondents reply dated 28.09.2016 and complainant's rejoinder dated Nil, a hearing in the matter was scheduled on 21.02.2017.

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7. During the hearing the complainant submitted that he is a person with 55% locomotor disability and working as Technical Assistant Grade-I on probation in the Central Manufacturing Technology Institute (CMTI), Bengaluru. He reiterated his complaint regarding unfriendly environment and discrimination on the basis of his disability. He submitted that initially he was posted at first floor, then he was shifted to ground floor where there was no ventilation. In addition to this there were no ramps, railings for movement of disabled persons which causes severe inconvenience. He represented the management to make the working environment disable friendly and accessible for employees with disabilities. Despite facing all the problems he completed his probation period but his probation period was again extended for six months whereas all the 23 employees were confirmed. He also represented in this regard to the management and requested that his service may be confirmed as has been done in case of other 23 employees.

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8. During the hearing the representative of respondent relied upon the replies submitted by the respondent and added that the buildings of the Institute is 4-5 decades old due to which railings and ramps have not been provided. However, a committee has been constituted to renovate the old buildings to create disabled friendly environment. Some works have been taken up and some works are in progress. Now buildings are being constructed keeping in view of the requirements of persons with disabilities. Before extension of this probation, i.e. March, 2016, the complainant did not file any complaint regarding his grievance but after the extension of his probation he filed his grievance and RTI applications also. However, the grievances of the complainant are being addressed in phased manner. As regards, his extension of probation period, it is based on his performance during the entire period of training which are not linked with the common issues like providing infrastructure and utilities for employees with disabilities.

9. In view of the above, while this Court appreciates the respondents that the environment of the Institute is being made conducive to the persons with disabilities, the respondent is advised to consider the request of the complainant, regarding confirmation of his services on the appointed post, who has already completed his training and yet his probation period has been extended, and submit their comments ensuring that a person with disability is not deprived of their legitimate rights. The complainant is exempted from appearance on the next date of hearing with the direction that he shall be available on his mobile phone on the date and time of hearing. The next date of hearing was fixed on 15.03.2017 at 1500 Hrs.

10. The Respondent vide written submission dated Nil submitted that freshers are posted to various departments and are offered training and mentoring during their probationary period readying them to carryout departmental work, jobs, activities and assignments. Fresher's are provided on the job training and are expected to perform assigned tasks and are evaluation based on their performance during the probationary period for confirmation. On successful completion of training they are absorbed in CMTI with regular employment. The complainant was appointed as a Technical Assistant Trainee w.e.f. 26.06.2013 and his training period was for two years. Half year or every six months assessment is carried out for all trainees appointed. Confirmation in the appointed post is made upon successful completion of training. The trainees/staff is governed by the Service Rules and Guidelines of the Institute. Performance of every trainee is individualistic and confirmation into regular service depends on progress by respective trainees. The Respondent referring to Clause No. 1 of the offer of Appointment issue to the complainant vide letter dated 05.06.2013, stated that it is categorically specified that 'the period of training may be extended depending upon his progress' at the discretion of the Institute. The Respondent has assured that assessment will be carried out judiciously and the extension of the training period if done, is to prepare the trainee to perform

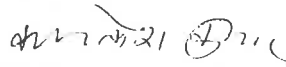
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assigned tasks and some trainees may be slow in progress. Based on the performance of the complainant, his training was extended for six months and subsequently he was confirmed in the post of w.e.f. 26.12.2015. He is a permanent employee of the Institute now. The complainant was extended for six months based on his performance during the entire period of training. As per the performance evaluation, the complainant has not performed to the expectations on three criteria. The details are given below:-

S No	Review Period	Criteria	Performance
1.	1 st Six months 26.06.2013 25.12.2013	Contributions from the appraise in quality and quantity of the work done.	Average
2.	2 nd Six months 26.12.2013 25.06.2014	a) Resourcefulness b) Initiative	a) Average b) Average

The Respondent submitted a statement of evaluation of all batch mates of the complainant has been prepared and submitted to this Court along with this reply. They submitted that that evaluation assessment sheets are confidential in nature, hence not made public. As per the statement of evaluation, all the trainees of the complainant's batch who are confirmed have scored 'good' and 'very good', whereas the complainant has scored 'average'. Based on this, his training was extended for six months. Respondent further stated that no relaxation may be granted for service related matters like confirmation and promotions etc. Such relaxation if permitted, merit loses its importance and may adversely impact morale of performance and organizational growth.

11. After hearing both the parties and the going through the submission of the Respondent, the Court advised the Respondent to consider confirmation of the service of the complainant and provide easy accessibility and barrier free environment for persons with disabilities so that the complainant can discharge his official duties in a more productive way and also ensure that persons with disabilities are not deprived of their legitimate rights.


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