



सत्यमेव जयते

## न्यायालय मुख्य आयुक्त विकलांगजन

### COURT OF CHIEF COMMISSIONER FOR PERSONS WITH DISABILITIES

विकलांगजन सराफिकरण 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. 5011,5015-5046/1011/2015

Dated:- 10.02.2016

#### In the matter of:

Shri S.K. Rungta,  
General Secretary,  
National Federation of the Blinds (NFB),  
P-21, Sector -6, Pushp Vihar,  
New Delhi.

..... Complainant

Versus

Secretaries of Ministries/Departments  
(As per list attached ) ( Annexure -I ).

..... Respondents

Date of hearing : 28.01.2016

#### Present :

1. Shri S.K. Rungta, Complainant.
2. Respondents present - As per list attached ( Annexure -II ).
3. List of Respondents absentee ( Annexure -III ).

#### RECORD OF PROCEEDINGS

In the beginning of the hearing, Shri S.K. Srivastava, Member-Secretary, RCI & Dy. Chief Commissioner informed all the respondents that Shri S.K. Rungta, General Secretary, National Federation of the Blind filed a complaint under Section 59 of the Persons with Disabilities Act, 1995 against the various Ministries/Departments praying for (i) call for the records/vacancies based roster maintained by the respondents in terms of the directions of Hon'ble Apex Court as contained in the said judgment, examine the same and direct the respondent Departments to rectify the number of backlog vacancies against the reservation for persons suffering from blindness and low vision and filled up the same as a part of separate recruitment drive in terms of direction of Hon'ble Supreme Court of India. While the Department of personnel & Training is monitoring the progress for filling up of vacancies reserved for Persons with Disabilities in association with the Department of Empowerment of persons with Disabilities and CCPD, NFD has pointed out that the issue relating to number of backlog vacancies meant for persons with blindness and low vision cannot be verified unless the reservation rosters for Persons with disabilities of the concerned Ministries/Departments are perused. Though Mr. Rungta asked information relating to backlog vacancies notified for persons with visual impairment (blindness or low vision), yet we had asked information from the 33 Ministries/Departments for forwarding a copy of reservation roster on the basis of which the number of backlog vacancies meant for three categories viz. persons with visual impairment, hearing impairment and locomotor disability (VH, HH & OH) were calculated for conducting special recruitment drive as reported to

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(कृपया भविष्य में पत्राचार के लिए उपरोक्त फाईल /केस संख्या अवश्य लिखें)

(Please quote the above file/case number in future correspondence)

DoP&T. We had got information from the (i) Ministry of Mines; (ii) Ministry of Commerce & Industries; (iii) Central Administrative Tribunal and (iv) Department of Animal Husbandry, Dairying and Fisheries which were forwarded to Mr. S.K. Rungta, complainant. After this, the information from the (i) Ministry of Power; (ii) Department of Industrial Policy and Promotion; (iii) Ministry of Road Transport & Highways; and (iv) Department of Electronic & Information Technology was received, which we could not sent to the complainant. The same will now be sent. The respondent who have brought the information relating to their Ministry/Department may hand over the same to our representative.

2. The complainant submitted that at the outset I would like to thank Hon'ble Secretary and Chief Commissioner's office for taking my complaint very seriously. It is not only an important issue of discharging under the Persons with Disabilities Act but also it relates to the implementation of Hon'ble Supreme Court's Orders. I would very briefly say that the Hon'ble Supreme Court in his judgment has interpreted Section 33 of the Persons with Disabilities Act that 3 percent vacancies for persons with disabilities are to be computed in the cadre strength that is one point. Second point is that after computation, you will have to distribute these vacancies on the basis of the said computation among the three categories of disabilities i.e. Visual Impairment, or blindness, hearing impairment and locomotor disability equally, that means you will have to give one percent reservation to each of the three categories. We cannot combine any of the category to the other. In this regard DoP&T has issued various Office Memorandums, probably the last one is of dated 22<sup>nd</sup> May, 2015, in which Roster etc. was also annexed. The Roster is to be maintained on the vacancies based on this principle. Some of the Departments have supplied the Roster and some of them have not. I have a lot of data available with me and, in fact, to my utter disappointment that for the consideration of the Hon'ble Court some of the Departments have not supplied the Roster. Now coming to the point on the basis of which the complaint has been made. If we look on each and every reply which they have reported on this point to the Department of Personnel & Training and Hon'ble Supreme Court in my petition, everyone has given very less vacancies and you will see that though you have made appointments of VH persons which is not the case. My calculation from the entire analysis of the vacancies mentioned in your reply before the Supreme Court is that not even 5% reservation has been given by each of the Department to the VH. In some cases, I will also be able to show. From the figures of the Ministry of Defence, I will be able to show that. Many Departments as part of the Special Recruitment Drive have only mentioned such and such reserved vacancies for PH. Some Departments have tried to dilute blind and low vision by conveniently. Thus the vacancy reserved only for low vision is identified for blind and low vision as well. Even further among the low vision, a discrimination is being made and, therefore, we have made this complaint. Now, that is very big backlog other than as reported to DoP&T. Whereas under Section 37 of the Persons with Disabilities Act, this Court can call any requisite document. We are also concerned to provide copy of the advertisement issued for filling up the backlog of vacancies.

3. **Ministry of Defence:** According to the data submitted before the Hon'ble Supreme Court, In **Group 'A'** or equivalent, there are 13 backlog vacancies. You have said 3 for VH, 3 for HH and 7 for OH. Vacancies filled up 4 out of total 13 - 4 for OH, 0 for VH and 0 for HH. Action taken for filling up of total valances of 5, 1 for VH, 1 for HH and 3 for OH. Action yet to be taken for initiating recruitment process - total 4, VH 1, HH -1, OH-2. Now in **Group 'B'**, the vacancies reported to Hon'ble Supreme Court - 43, 11 for VH, 12 for HH and 20 for OH. Vacancies filled up - 32, VH-5, HH-5, OH-22. Action taken for filling up of vacancies - Total - 10, VH-1, HH-3, OH-6. Action yet to be taken for initiating recruitment process - Total - 1, VH-0, HH-0 and OH-1. **In Group 'C'** - Vacancies reported to Hon'ble Supreme Court - Total - 1455, VH-440, HH-492, OH-523, Vacancies filled up - Total - 1081, VH-111, HH-334 and OH-636. Action taken for filling up of vacancies - Total - 287, VH-57, HH-98 and OH-1932. Action yet to be taken for initiating recruitment process - Total - 87, VH-37, HH-38, OH-12. In **Group 'D'** vacancies reported to Hon'ble Supreme Court - Total -4, VH-0, HH-2 and OH-2. Vacancies filled up - Total - 3, VH=0, HH-1 and OH-2. Action taken for filling up of vacancies - Total 1, VH-0, HH-1, OH-0. Action yet to be taken for initiating recruitment process - Total 0, VH-0, HH-0 and OH-0.

4. **Department of Defence Production :- Group 'A'** Vacancies reported to Hon'ble Supreme Court - Total- 75, VH-8, HH-33, OH-34, Vacancy filled up - Total - 31, VH-2, HH-15, OH-14. Action taken for filling up of vacancies - total 39, VH-5, HH-16, OH-18. Action yet to be taken for initiating recruitment process - Total -5, VH-1, HH-2, OH-2. **Group 'B'** :- Vacancies report to Hon'ble Supreme Court - Total - 111, VH-21, HH-48, OH-42, Vacancies filled up - Total - 5, VH - 2, HH-1, OH-2. Action taken for filling up of vacancies - Total - 106, VH-19, HH-47, OH-40. Action yet to be taken for initiating recruitment process - Total- 0, VH-0, HH-0, OH-0. **Group 'C'** - Vacancies reported to Hon'ble Supreme Court - Total - 822, VH-192, HH-264, OH-366, Vacancies filled up - Total - 176, VH-17, HH-26, OH-133. Action taken for filling up of vacancies - Total - 501, VH-122, HH-188, OH-191. Action yet to be taken for initiating recruitment process - Total 145, VH-53, HH-50, OH-42. **Group 'D'** :- Vacancies reported to Hon'ble Supreme Court - Total - 73, VH-03, HH-29, OH-41, Vacancies filled up - Total - 36, VH-1, HH-12, OH-23. Action taken for filling up of vacancies. Total - 36, VH-01, HH-17, OH-18. Action yet to be taken for initiating recruitment process Total - 1, VH-1, HH-0, OH-0.

5. In reply to the submissions of the complainant, the representatives of the Ministry of Defence and Department of Defence Production submitted that they are filling up the vacancies on the basis of Reservation Rosters. The Departments under the Ministry are too large. There are several PSUs/Units under them situated at different part of the country. The data as was received/collected from them, was forwarded to the DoP&T. On the query of low percentage of VH category, they stated that before giving their reply to the query, they will have to examine first whether the posts of VH for their percentage quota were already filled and now less number of vacancies filled have been shown.

6. It was also submitted by the representative of the respondent that DRDO is a separate organization. They will submit their reply separately.

7. Para Military Forces may seek exemption under Section 47 and not Section 33 of the Persons with Disabilities Act, and may keep in mind its proviso, which is reproduced as under:-

*“Provided that the appropriate Government may, having regard to the type of work carried on in any establishment, by notification and subject to such conditions, if any, as may be specified in such notification, exempt any establishment from the provisions of this Section.”*

8. Vacancies are identified by the Department of Empowerment of Persons with Disabilities, Ministry of Social Justice and Empowerment, Government of India. The Notification of Ministry of Social Justice & Empowerment also mentions that the lists of identified posts are not exhaustive and the establishments are free to add to the list. In the list of identified posts issued by the Ministry of Social Justice & Empowerment, the Ministries/Departments have no liberty to identify those posts separately. If any nomenclature is not covered, then the Head of Institution is free to identify one percent each suo motu.

9. The Court pointed out that different Public Sector Undertakings under the different Ministries will submit their reply to their respective Ministry and the Ministry concerned will submit the reply to this Court after compilation.

10. The Court also directed all the respondents that they will send a copy of their advertisements in respect of filling up of the backlog vacancies to the office of the Chief Commissioner for Persons with Disabilities, who will display on their website.

11. Since many of the participants have requested for clarifying them the procedure for maintaining the Reservation Roster, it is required that Department of Personnel & Training may arrange a Workshop/Seminar enabling all the concerned Ministries/Departments and made them aware about the maintenance of Reservation Roster so that the Ministries/Departments may maintain the Reservation Roster accordingly and compute the backlog of vacancies reserved for persons with disabilities. A copy of this Record of Proceedings may be sent to Secretary, Department of Personnel & Training, North Block, New Delhi for appropriate/necessary action.

12. The Respondent Departments are directed to furnish the following information to this Court upto 25.02.2016 positively:-

- (i) Details of vacancies filled since 01.01.1996 in the proforma supplied during the course of hearing on 28.01.2016.

- (ii) Certificate of the Liaison Officer certifying that the Roster has been maintained from 01.01.1996 as per DoP&T's instructions.
- (iii) Copy of advertisement for filling up the posts reserved for persons with disabilities.
- (iv) Justification of gap of filling up of vacancies in VH, HH and OH category.

*Dr. Kamlesh Kumar Pandey*  
*10.2.2016*

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

List of Respondents

Sl.No.	Case No.	Name of Respondent
1.	5011/1011/2015	The Secretary Department of Defence Ministry of Defence, South Block, New Delhi R885
2.	5015/1011/2015	The Secretary Ministry of Power Shram Shakti Bhawan, Rafi Marg New Delhi R886
3.	5016/1011/2015	The Chairman Niti Ayog, Yojana Bhawan, Sansad Marg New Delhi-110001 R887
4.	5017/1011/2015	The Secretary M/o Micro, Small & Medium Enterprises 'A' Wing, 7 <sup>th</sup> Floor, Nirman Bhawan New Delhi R888
5.	5018/1011/2015	The Secretary Department of Legal Affairs Ministry of Law & Justice Shastri Bhawan, New Delhi R889
6.	5019/1011/2015	The Secretary Department of Industrial Policy & Promotion, Ministry of Commerce & Industry, Udyog Bhawan, New Delhi R890
7.	5020/1011/2015	The Secretary Ministry of Human Resource Development Shastri Bhawan, New Delhi R891
8.	5021/1011/2015	The Secretary Department of Home Affairs Ministry of Home Affairs North Block, New Delhi R892
9.	5022/1011/2015	The Secretary Department of Heavy Industries Ministry of Heavy Industries & Public Enterprises, Udyog Bhawan, New Delhi R893
10.	5023/1011/2015	The Secretary Ministry of Information & Broadcasting Shastri Bhawan, New Delhi R894
11.	5024/1011/2015	The Secretary Department of Youth Affairs & Sports Shastri Bhawan, New Delhi R895
12.	5025/1011/2015	The Secretary Ministry of Women & Child Development Shastri Bhawan, New Delhi R896



13.	5026/1011/2015	The Secretary Ministry of Water Resources, River Development & Ganga Rejuvenation 626, Shram Shakti Bhawan, New Delhi	R897
14.	5027/1011/2015	The Secretary Ministry of Urban Development Nirman Bhawan, New Delhi	R898
15.	5028/1011/2015	The Secretary Department of Telecommunications 105, 1 <sup>st</sup> Floor Sanchar Bhawan, New Delhi	R899
16.	5029/1011/2015	The Secretary Department of Rural Development Ministry of Rural Development Krishi Bhawan, New Delhi	R899 R900
17.	5030/1011/2015	The Secretary Ministry of Road Transport & Highways 5 <sup>th</sup> Floor, Transport Bhawan, 1 Parliament Street, New Delhi	R901
18.	5031/1011/2015	The Secretary Railway Board Rail Bhawan, New Delhi	R902
19.	5032/1011/2015	The Secretary Department of Food & Public Distribution Ministry of Consumer Affairs, Krishi Bhawan, New Delhi	R903
20.	5033/1011/2015	The Secretary Ministry of Environment, Forests & Climate, Change, Indira Paryavaran Bhawan, Jor Bagh New Delhi	R904
21.	5034/1011/2015	The Secretary Ministry of Culture Room No. 501, 'C' Wing Shastri Bhawan New Delhi	R905
22.	5037/1011/2015	The Secretary Department of Defence Production South Block, New Delhi	R906
23.	5038/1011/2015	The Secretary Department of Scientific & Industrial Research, Anusandhan Bhawan, 2 Rafi Marg, New Delhi	R907
24.	5039/1011/2015	The Secretary Department of Empowerment of Persons with Disabilities, Ministry of Social Justice and Empowerment, Paryavaran Bhawan, 5 <sup>th</sup> Floor, New Delhi	R908
25.	5040/1011/2015	Employees State Insurance Corporation Panchdeep Bhawan, Comrade Inderjeet Gupta (CIG) Marg, New Delhi – 110002	R909
26.	5041/1011/2015	The Secretary Department of Electronic & Information Technology, Ministry of Communications & Information Technology, Electronics Niketan, 6, CGO Marg, Lodhi Road, New Delhi	R910

27.	5042/1011/2015	Comptroller & Auditor General Of India 9, Deen Dayal Upadhyay Marg, New Delhi
28.	5044/1011/2015	The Secretary Department of Atomic Energy Anushakti Bhawan, Chatrapathi Shivaji Maharaj Marg, Mumbai
29.	5046/1011/2015	The Secretary Department of Agriculture & Cooperation Ministry of Agriculture, Krishi Bhawan, New Delhi

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Annexure - II

List of Respondents present

Sl.No.	Case No.	Name of Respondent	Who attended the hearing
1.	5011/1011/2015	The Secretary Department of Defence Ministry of Defence, South Block, New Delhi	Shri Anil Kumar, Deputy Secretary
2.	5015/1011/2015	The Secretary Ministry of Power Shram Shakti Bhawan, Rafi Marg New Delhi	1. Ms. Renuka Kumar, Director 2. Shri C. Thenmoli, Under Secretary
3.	5017/1011/2015	The Secretary M/o Micro, Small & Medium Enterprises 'A' Wing, 7 <sup>th</sup> Floor, Nirman Bhawan New Delhi	Shri Dusru Kudada, Under Secretary
4.	5018/1011/2015	The Secretary Department of Legal Affairs Ministry of Law & Justice Shastri Bhawan, New Delhi	Shri A.K. Joshi, Deputy Secretary
5.	5019/1011/2015	The Secretary Department of Industrial Policy & Promotion, Ministry of Commerce & Industry, Udyog Bhawan, New Delhi	Shri L.K. Sharma, Under Secretary.
6.	5020/1011/2015	The Secretary Ministry of Human Resource Development Shastri Bhawan, New Delhi	Shri K.P.J. Gerald, Under Secretary (SC/ST/PWD)
7.	5021/1011/2015	The Secretary Department of Home Affairs Ministry of Home Affairs North Block, New Delhi	Shri A.K. Nigam, Deputy Secretary
8.	5022/1011/2015	The Secretary Department of Heavy Industries Ministry of Heavy Industries & Public Enterprises, Udyog Bhawan, New Delhi	Ms. Ved Jyoti, Under Secretary
9.	5023/1011/2015	The Secretary Ministry of Information & Broadcasting Shastri Bhawan, New Delhi	Shri D.K. Chawla, Under Secretary
10.	5024/1011/2015	The Secretary Department of Youth Affairs & Sports Shastri Bhawan, New Delhi	1. Sh. Gaurav Agrawal, Director (Youth Affairs) 2. Shri Atish Ganguly, Assistant Director
11.	5025/1011/2015	The Secretary Ministry of Women & Child Development Shastri Bhawan, New Delhi	Sh. Sunil Kumar Choudhary, Under Secretary.

12.	5026/1011/2015	The Secretary Ministry of Water Resources, River Development & Ganga Rejuvenation 626, Shram Shakti Bhawan, New Delhi	Sh. Banarsi Ram, Deputy Secretary,
13.	5027/1011/2015	The Secretary Ministry of Urban Development Nirman Bhawan, New Delhi	Ms. Madhavi Mohan, Under Secretary (Coord)
14.	5028/1011/2015	The Secretary Department of Telecommunications 105, 1 <sup>st</sup> Floor Sanchar Bhawan, New Delhi	Sh. Gautam Kumar, Director (SR)
15.	5029/1011/2015	The Secretary Department of Rural Development Ministry of Rural Development Krishi Bhawan, New Delhi	Sh. Rajeev Sharma, Under Secretary
16.	5030/1011/2015	The Secretary Ministry of Road Transport & Highways 5 <sup>th</sup> Floor, Transport Bhawan, 1 Parliament Street, New Delhi	1.Sh.D.R. Sharma, Under Secretary 2.Sh.H.R. Meena, Under Secretary
17.	5031/1011/2015	The Secretary Railway Board Rail Bhawan, New Delhi	Mr. U.N. Mehta, Joint Director (Est.) (Res)
18.	5032/1011/2015	The Secretary Department of Food & Public Distribution Ministry of Consumer Affairs, Krishi Bhawan, New Delhi	1.Sh. Rajiv Mehendru, Dy. Secretary, Deptt. Of Food and PD 2.Shri Mahender Singh, Under Secretary.
19.	5033/1011/2015	The Secretary Ministry of Environment, Forests & Climate Change, Indira Paryavaran Bhawan, Jor Bagh, New Delhi	1.Shri P.J. Michael, Dy. Secretary 2.Shri Manoj Prabhat, Under Secretary
20.	5034/1011/2015	The Secretary Ministry of Culture Room No. 501, 'C' Wing Shastri Bhawan New Delhi	Ms. Bandana Sharma, Director.
21.	5037/1011/2015	The Secretary Department of Defence Production South Block, New Delhi	1.Ms. Kusum Singh, Joint Secretary 2.Shri R.C. Meena, Deputy Secretary.
22.	5038/1011/2015	The Secretary Department of Scientific & Industrial Research, Anusandhan Bhawan, 2, Rafi Marg, New Delhi	1. Shri Manuel Thomas, Sr. Deputy Secretary) 2. Mr. Rohit Gupta, Under Secretary
23.	5039/1011/2015	The Secretary Department of Empowerment of Persons with Disabilities, Ministry of Social Justice and Empowerment, Paryavaran Bhawan, 5 <sup>th</sup> Floor, New Delhi	Shri D.K. Panda, Under Secretary.
24.	5040/1011/2015	Employees State Insurance Corporation, Panchdeep Bhawan, Comrade Inderjeet Gupta (CIG) Marg, New Delhi – 110002	Shri P.K. Narula, Joint Director, ESIC

25.	5041/1011/2015	The Secretary Department of Electronic & Information Technology, Ministry of Communications & Information Technology, Electronics Niketan, 6, CGO Marg, Lodhi Road, New Delhi	Shri R. C. Saluja, (Director)
26.	5042/1011/2015	Comptroller & Auditor General of India 9, Deen Dayal Upadhyay Marg, New Delhi	Shri Narendra Singh, Sr. Administrative Officer
27.	5044/1011/2015	The Secretary, Department of Atomic Energy Anushakti Bhawan, Chatrapathi Shivaji Maharaj Marg, Mumbai	Sh. K. Venkat Subramanian, (Under Secretary.
28.	5046/1011/2015	The Secretary Department of Agriculture & Cooperation Ministry of Agriculture, Krishi Bhawan, New Delhi	Shri Vineet Kumar Verma, Director, (GC&PC).

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Annexure - III

List of Respondents absentee

<b>Sl.No.</b>	<b>Case No.</b>	<b>Name of Respondent</b>
1.	5016/1011/2015	The Chairman, Niti Ayog, Yojana Bhawan, Sansad Marg, New Delhi 110001.