



न्यायालय मुख्य आयुक्त दिव्यांगजन

**COURT OF CHIEF COMMISSIONER FOR PERSONS WITH DISABILITIES (DIVYANGJAN)**  
दिव्यांगजन सशक्तिकरण विभाग/Department of Empowerment of Persons with Disabilities (Divyangjan)  
सामाजिक न्याय और अधिकारिता मंत्रालय/Ministry of Social Justice & Empowerment  
भारत सरकार/Government of India

5वाँ तल, एन.आई.एस.डी. भवन, जी-2, सेक्टर-10, द्वारका, नई दिल्ली-110075; दूरभाष : (011) 20892364  
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Email: ccpd@nic.in; Website: www.ccdisabilities.nic.in

**Case No.13804/1024/2023/184731**

**Complainant:**

Shri Ketan Chauhan,  
BSNL, Rajkot, Gujarat  
Email: ketanchauhan@gmail.com

**Respondent:**

The Chairman & Managing Director  
Bharat Sanchar Nigam Limited  
F29P+3W4, Delhi Rd, Anamika Enclave,  
Sector 14, Gurugram, Haryana 122001  
Email: cmdbsnl@bsnl.co.in

**1. Gist of the Complaint:**

1.1 Shri Ketan Chauhan, a person with 45% Locomotor Disability filed a complaint dated 07.01.2023 regarding grant of Special Casual Leave.

1.2 He submitted that he is working as Junior Engineer in BSNL Rajkot (Gujarat Circle) had requested for a clarification regarding the necessity of a medical certificate for grant of 4 special casual leave in a calendar year to him.

**2. Submissions made by the Respondent:**

2.1 Assistant General Manager (Estt-III), Bharat Sanchar Nigam Limited, filed their reply dated 07.01.2023 submitted that as per Govt. guidelines, in Central Government Service, a total of 8 Casual Leaves per year are allowed. In BSNL, the employees are allowed 12 Casual Leaves per year.

2.2 Since BSNL is already granting a total of 12 Casual Leaves per year to its employees, the specific benefit of DOP&T OM dated 31.03.2014 has not been extended in BSNL.

**3. Submissions made in Rejoinder:**

3.1 No rejoinder has been received from the complainant.

**4. Hearing:** The case was heard via Video Conferencing by Chief Commissioner for Persons with Disabilities on 22.09.2023. The following were present in the hearing:

- Shri Ketan Chauhan - **Complainant**
- Shri Keshav Kumar – **Respondent**
- Shri Yogesh Kumar, General Manager- **Respondent**
- Shri Manoj Kumar, GM, Admn. BSNL – **Respondent**

**5. Observation & Recommendation:**

5.1 The Complainant sought clarification from the Court whether a Medical Certificate is required for grant of Special Casual Leave to a person with disabilities. The Respondent Shri Keshav Kumar submitted that the 4 days' Special Casual Leave allowed by DoPT to employees with disabilities over and above the 8 days' Casual Leave allowed to non-disabled employees of the Central Government has not been extended in the BSNL as 12 days' Casual Leaves are already allowed to all employees of the company. Thus, a question of grant to additional 4 days of Special Casual Leave does not arise in their establishment.

5.2 This Court is not inclined to agree with the contention of the Respondent. Section 3 and 20 of the Act obligate the government establishments to allow reasonable accommodation to persons with disabilities. Equal treatment of employees with disabilities with their non-disabled counterparts in the establishment reeks of discrimination and is apparently unjust.

5.3 The Respondent has relied upon the DoPT OM No. 25011/1/2008/Estt. (A) dated 19.11.2008, where 4 days' SCL was allowed over and above the 8 days of CL in a calendar year was allowed for non-disabled employees. In the said OM also, the ground for grant of these 04 SCLs was mentioned as "for specific requirements relating to the disability of the official". The DoPT vide their OM No. 36035/3/2013/Estt. (Res) dated 31.03.2014 has reiterated the aforesaid provision without linking the same with the number of Casual Leave allowed to non-disabled employees of central government. The aforementioned SCLs are in addition to the 10 days of SCL per year permissible to an employee with disability for taking part in recognised training programme/seminar/workshop, etc.

5.4 The contention of the Respondent that the instruction dated 31.03.2014 has not been extended to the BSNL is factually incorrect as the The Department of Public Enterprises have already circulated these instructions vide their circular no. 6(09)/2006-

DPE (SC/ST Cell) dated 07.04.2014 and again very recently vide their OM No. DSPE-GM-0043/2014-GM (FTS-1899) dated 05.04.2023.

5.4 Moreover, sections 3 and 20 of the RPwD Act provide for reasonable accommodation to person with disabilities. Section 21 of the Act read with Rule 8 of the RPwD Rules provides the manner of publication and registration of Equal Opportunity Policy (EOP) by government as well as private establishments. Rule 8, sub-rule (3) (c) of the RPwD Rules, 2017 mandates every establishment to incorporate inter alia provisions related to Special Leave for persons with disabilities in their EOP. It is clearly not the case of the Respondent to say that in their establishment, the no. of Special Leave is zero.

5.5 In so far as the request of the complainant for clarification whether medical certificate is required for grant of Special Casual Leave or not, this Court is not inclined to pass direction before the cause of action has arisen. If any such request has been rejected, the complainant is free to file his complaint separately which will be looked into as per the rules and the facts of the case.

5.6 Finally, the Respondent is directed to de-link Special Casual Leave with the Casual Leave allowed to non-disabled employees and follow the statutory provisions and executive instructions as mentioned above in letter and spirit. The Respondent is also advised to prepare, publish and get registered its Equal Opportunity Policy in conformity with section 21 of the Act read with rule 8 of the rules and forward its action taken report within 3 months of issue of this order.

5.7 This case is disposed of accordingly.

**(Rajesh Aggarwal)**  
Chief Commissioner for  
Persons with Disabilities



न्यायालय मुख्य आयुक्त दिव्यांगजन

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**Case No: 13667/1022/2023**

**In the matter of:  
Complainant:**

Shri Pankaj Jain  
SDE (NOP-I) CM  
MP Telecom Circle, Bhopal  
Mobile No - 9425006980  
Email - jainpankaj.bpl@gmail.com

**Respondent:**

The CGMT MP Telecom Circle  
4<sup>th</sup> Floor BSNL Bhawan  
Hoshangabad Road  
Bhopal Madhya Pradesh - 462026  
Contact No - 9431000066  
Email - cgm\_mp@bsnl.co.in

**1. Gist of Complaint:**

1.1 The Complainant, Shri Pankaj Jain, Sub Divisional Engineer, working as the SDE in the MP Telecom Circle, Bhopal, filed a complaint through his email dated 21.12.2022 requesting for cancellation of his transfer order from Bhopal to Jabalpur on the ground of being a care giver to his daughter, who is a person with down syndrome with 50% Intellectual Disabilities.

1.2 He submitted that as per the DoPT guidelines and BSNL transfer policy, caregiver of disabled child is exempted from routine/rotational transfer. He requested to his office on 30.06.2016 to exempt him from transfer which were considered by BSNL MP circle administration from time to time. The Complainant further submitted that the decision on his representation is still pending with BSNL Admin, MP circle.

1.3 The Complainant also said that the BSNL Corporate Office, in the meantime, declared promotion of applicant from SDE to AGM on 16 Nov 2022 and allotted him MP circle. With reference to the promotion order issued from BSNL Corporate Office, the applicant again requested the Respondent to post him as AGM at Bhopal only. But keeping his request aside, BSNL MP Circle has transferred him from Bhopal to Jabalpur on promotion vide BSNL posting order dated 17 Nov 2022, published on 19th Nov, 2022. The complaint also underscored that almost all other executives including some juniors to the applicant, were posted at the same station.

1.4 The Complainant requested the administration vide letter dated 21 Nov 2022, to reconsider the posting on promotion and post hm at Bhopal, where sufficient vacancies were existed. But, the said representation is kept pending till now with the Respondent.

## **2. Submissions made by the Respondent:**

2.1 The Dy. General Manager (Admn.), M.P. Telecom Circle Bhopal submitted reply on behalf of the Respondent vide letter dated 20.02.2023 and stated that the transfer and posting order on AGM promotion issued vide this office letter No. ST-03/AGM/2022- 23/12 Dated 17.11.2022 in respect of Shri Pankaj Jain, SDE under PGM (CM), Co, Bhopal has already been modified to Sehore under Bhopal vide their letter No. ST- 03/31/Inter Circle Transfer/2022-23/78 dated 24.12.2022 at his own cost & request. Further, the executive has already joined as AGM (Sehore) O/o GM, BA, Bhopal on dated 26.12.2022.

## **3. Submissions made in Rejoinder:**

3.1 The Complainant in his rejoinder vide e-mail dated 28th March, 2023 submitted that as SDE, he was transferred to Singrauli on the basis of longest stay at one station, which as per the DOPT guidelines and also as per BSNL transfer policy, was not applicable to the undersigned being a caregiver of a special child. He stated that it is very difficult and also not manageable for the complainant to properly look after his differently abled child from remote place, i.e. Sehore. He prayed to direct the BSNL Administration MP to modify the said posting order and change his place of posting from Sehore to Bhopal.

**4 . Hearing:** The case was heard via Video Conferencing by Chief Commissioner for Persons with Disabilities on 22.09.2023. The following were

present in the hearing:

- Shri Pankaj Jain – Complainant
- Shri Keshav Kumar – Respondent
- Shri Manoj Kumar, GM, Admn. BSNL – Respondent

## **5. Record of Proceedings:**

5.1 At the very outset, the Complainant was asked to present his case in brief. The Complainant submitted that he has a daughter who is 13 years old and is suffering from down syndrome. In November, 2022 on his promotion to the grade of DE/AGM (E-4 IDA pay Scale), he was transferred from Bhopal to Sehore. Further, his area of duty included 3 blocks, namely- Ashta, Ichhawar and Sehore, which are situated within a radius of 40- 45 kms. Sehore itself is about 40 Kms from Bhopal. He also submitted that his wife is also working part time. The Complainant further submitted that from the list of promoted officers, he is the only one who has been shifted out of Bhopal and other officers including his seniors and Juniors have all been retained in Bhopal.

5.2 The Court asked the Respondent to clarify whether others from the same list of promotion were retained at Bhopal or not. The respondent's reply was in affirmative. The Court observed that the action of the Respondent is apparently violative of the DoPT instructions in this regard. The Respondent submitted that the Complainant was transferred on the ground of long stay at the same station, as he had been in Bhopal since 1998. Among the officers promoted and transferred the Complainant is the oldest serving officer at Bhopal. The Court directed the Respondent to submit a report on or before 25th September, 2023 indicating the total period of stay at Bhopal in respect of all the retained employees including in different spells. The Court also directed the Respondent to furnish record of posting details of all the officers promoted in the same list since beginning of their career.

5.3 In response to the aforesaid direction the respondent vide their email dated 22.09.2023 enclosed copies in promotion order from SDE to AGM Telecom cadre issued vide BSNL CO New Delhi order no. BSNL CO- PERS/13(11)/3/2022- DPC dated 16.11.2022 and further posting order vide letter no. ST-03/AGM/2022-23/12 dated 17.11.2022. The Respondent enclosed copies of the aforementioned orders and a list of such offices with a separate column indicating their stay period at Bhopal. The Respondent submitted that the list clearly indicates that Shri Pankaj Jain is top in the longest stay as Shri Manish Kumar Khare was already under transfer to Maharashtra Circle. Shri Pankaj Jain his stayed in Bhopal since 1998

i.e. more than 25 years at same station.

5.4 The Complainant also vide his email dated 25.09.2023 and submitted that the transfer of Complainant was done on the basis of 'longest stay Basis'. He submitted that BSNL is following the DOPT guidelines on transfer, in case of disabled/ care giver of disabled persons. In the last two years, the BSNL Corporate office has operated many inter-circle transfer orders (for example AGM (Pers.I) BSNL CO letter no BSNL CO- PETS/11/(11)/1/2023-PER1 dated 12.05.2023, BSNL CO- PR11/19(13)/2/2021-PERS-II dated 02.05.2022 etc) for executives having stay of about 25 years, in which cases of disabled /care giver of disabled person has been considered sympathetically as per DOPT/ BSNL policy and they were exempted from change of station. Moreover, BSNL Corporate Office has always been considerate and have humanitarian approach while dealing with such persons and recently had instructed all the circles of BSNL to verify such cases and to make entry of such cases in BSNL ERP data, to facilitate the such exemption etc.

5.5 He requested to instruct the BSNL MP circle to adopt humanitarian and sympathetic approach while dealing with his case too.

## **6. Observation and Questions**

6.1 It is observed that despite clear direction from this Court, the Respondent has not furnished record of posting details of all the officers promoted with the Complainant since beginning of their career. From the oral and written submissions of the Respondents, it is apparent that they do not have a policy on the issue of transfer and posting of the PwD as mandated under Sec 20 (5) of the Act or an Equal Opportunity Policy as per Section 21 of the Act. Despite a clear mention of these statutory provisions in the Notice dated 08.02.2023 of this Court whereby a copy of the same was sought to be annexed with their reply, the Respondents have neither annexed the policy nor have they commented on these statutory obligations. The Respondent is statutorily obligated to submit their EOP to this Court for its registration in compliance with Section 21 (2) of the Act.

6.2 Sections 20 (5), 21 read with Rule 8 of the RPwD Rules, 2017 makes it clear that a policy in this regard is mandatory. When such a policy is not available in the establishment, the issue cannot be left at the hand of local authorities to decide as per their subjective discretion. To fill the void, reliance is required to be

resorted to the guidelines issued by the administrative or the nodal ministry. In the instant case, DoPT have OM vide F. No. 42011/3/2014-Estt.(Res) dated 08.10.2018 has made enabling provisions for exemption from routine and rotational transfer of caregivers of dependent family members who are persons with benchmark disability having specified disability. The said OM has been circulated by the Department of Public Enterprises vide their OM No. DPE-GM-00433333/2014-GM (FTS-1899) dated 05.04.2023.

6.3 In the light of the aforesaid provisions, this Court is inclined to conclude that the Complainant is eligible to seek exemption from routine/rotational transfer and hence to recommend that the Respondent will examine the case afresh and give an open and sympathetic consideration to the same in the light of the stipulations brought out in the preceding paragraph.

6.4 The case is disposed of accordingly.

**(Rajesh Aggarwal)**  
Chief Commissioner for  
Persons with Disabilities





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**Case No: 14094/1033/2023**

**In the matter of:**

**Complainant:**

Shri Dharmendra Gupta F/o Shri Kartikeya Gupta  
H.No. 2 - Ma - 16, Opposite Bahubali Medical  
Vigyan Nagar, Kota - 324005  
Mobile No - 9414188877  
Email - dgmedatwal@gmail.com

**Respondent:**

- (1) The Secretary  
Department of Higher Education  
Room No. 128-C, Shastri Bhawan  
New Delhi - 110001  
Phone No - 011-23388632; 23386451; 23382698  
Email - secy.dhe@nic.in
- (2) The Registrar,  
Indian Institute of Information Technology (IIIT), Nagpur  
Survey No. 140, Behind of Br. Sheshrao Wankhade Shetkari  
Sahkari  
Soot Girni, Village - Waranga, P.O. Dongargaon (Butibori)  
Tahsil - Nagpur (Rular)  
District - Nagpur, Maharashtra - 441108  
Mobile No - 9405215010  
Email - registrar@iitn.ac.in
- (3) The Registrar  
Indian Institute of Information Technology (IIIT), Kota  
2<sup>nd</sup> Floor, Prabha Bhawan, MNIT Campus  
JLN Marg, Jaipur  
Rajasthan - 302017  
Email - registrar@iiitkota.ac.in

**Affected Person:** Shri Kartikeya Gupta, a person with 60% locomotor disability

## **1. Gist of Complaint:**

1.1 Shri Dharmendra Gupta, father of Shri Kartikeya Gupta, a person with 60% locomotor disability has filed a complaint dated 03.05.2023 and submitted that his son has been allotted IIIT, Nagpur based on the JEE - 2022 Examination, which is approx. 730 KM from his parental home at Kota city. He also submitted that the above institute does not permit any disabled student with their caretaker in hostel premises and also this institute is situated far away, i.e., approx. 30 kms, from the Nagpur city. He is staying with his son and for this purpose local conveyance is not available easily. He and his son are facing mental stress since he has shifted here.

1.2 He further submitted that he had approached the Ministry of Higher Education (Controlling authority of IIITs) several times through e-mails for transfer of his son from existing allotted IIIT to another IIIT, which is located in his own city, Kota as two seats are available in the PWD category on account of vacant seats from SC and ST categories (1 each) in the 1st Semester (2022 - 23) Batch in Computer Science and Engineering (CSE), These two seats are likely to remain vacant for next 4 years also.

## **2. Submissions made by the Respondent:**

2.1 Respondent No 01; Under Secretary, Department of Higher Education, Technical Section - I filed reply dated 24.07.2023 and submitted inter-alia that Registrar, IIIT Nagpur vide letter dated 02.06.2023 has stated that the Complainant had filed an online RTI Application and he has obtained information related to Rules and Regulations about Transfer of Candidate from existing allotted IIIT to other IIIT. It has been stated that the IIIT (PPP) Act, 2017, the statutes of IIIT Nagpur, 2017 and the Academic Rule Book of IIIT Nagpur do not have any provision for transfer of candidate from the allotted IIIT to another IIIT. Institute has also communicated that they would abide by any order issued by this Court requiring transfer of student to IIIT Kota after getting approval from BoG.

2.2 Dy. Registrar, IIIT Kota vide letter dated 05.06.2023 has stated that there is no provision of transfer from one IIIT to another IIIT in standard admission process of JoSAA/CSAB, IIIT (PPP) Act and Statutes/Ordinance made under the authority of the Act. Institute has also contended that in the absence of any specific provisions relating to transfer of students between IIITs, they would not be able to accommodate the request.

2.3 IIIT (PPP) Nagpur and IIIT (PPP) Kota are Institutes of National Importance governed by the IIIT (PPP) Act, 2017. These institutes function as per the provisions of the said Act and statutes of these institutes framed under the Act. Sub-clause (3) of Clause (8) of IIIT (PPP) Act, 2017 provide that admissions to every programme of study in each institute shall be based on merit assessed through transparent and reasonable criteria disclosed through its prospectus, prior to the commencement of the process of admission by such institute:

*“Provided that every such Institute shall be a Central Educational Institution for the purposes of the Central Educational Institutions (Reservation in Admission) Act, 2006.”*

2.4 The student was allotted IIIT Nagpur based on JoSAA 2022 under the General PwD category. The vacant seats in IIIT Kota being referred to by complainant are under SC/ST category only. There is no provision in IIIT (PPP) Act, 2017; Statutes framed thereunder or Academic Rule Books of the Institution or any policy approved by the BoG of any of the Institutions regarding transfer of students from one institution to another, it will open a Pandora’s box as the institutes are allocated on the basis of centralized counselling and on the basis of marks. All these institutes are independent of each other and the students are well aware of facilities available and location etc, before taking admission.

### **3. Submissions made in Rejoinder:**

3.1 The Complainant in his rejoinder dated 25.07.2023 has reiterated his Complaint and submitted that his child may be deprived of education due to the circumstances in which he is studying. If any seat remains vacant due to any reason under the admission process, whether it is general

seat or reserved seat of PWD quota, it can be allotted to any PWD candidate with special circumstances, because this matter is not related to government job, it is related to the right to education, which is the general right of every citizen, be it a person with disability or otherwise.

3.2 The process of admission has been completed a year back (2022-23) and at present they have no provision to fill that vacant seat and that vacant seat will remain vacant for the next 3 years as well.

**4. Hearing:** The case was heard via Video Conferencing by Chief Commissioner for Persons with Disabilities on 06.09.2023. The following were present in the hearing:

- Shri Dharmendra Gupta - **Complainant**
- Shri Jeewan Kumar, US, D/o Higher Education- **Respondent No.1**
- Shri Kailash Dakhale, IIT Nagpur - **Respondent No.2**
- Shri N.S Chauhan, Advocate, IIT Kota - **Respondent No. 3**

**5. Observations & Recommendations:**

5.1 The issues before this Court are as under:

(a) Whether the denial of migration from one IIIT to another amounts to deprivation of rights of a person with disability or amounts to discrimination on the basis of disability, and as such warranting intervention by this Court?

(b) Whether accommodating the Complainant within the hostel premises of the IIIT where his son is currently studying is permissible?

5.2 During the online hearing, the complainant alleged that his request for migration has been unjustly denied, whereas both Respondent No. 1 and Respondent No. 3 submitted that there are no specific precedents or rules governing migration from one IIIT to another on any grounds.

5.3 The Complainant reiterated the facts about his son's disability and dependency on a caregiver for his daily routine work. Since the IIIT Nagpur has not allowed him to accompany his son at the hostel within the campus of the institute, he is forced to stay at a rented

accommodation which is 30 Kms away from the institute. While the Complainant had to leave his job to be able to accompany his son at Nagpur which involves additional expenditure on rent, transport and other living cost, his son is deprived of peer support for his study. He also said that the vacant seat at IIIT Kota is not likely to be utilised for another student and if his son is given a migration/transfer to IIIT Kota, his problem will be solved. He requested that this being a very special case may be treated on an exceptional basis.

5.4 The respondents on the other side opposed the proposal on the ground that the IIITs are autonomous and independent of each other. As of now there is no policy of migration and neither is there any precedence at any of the IIITs concerned. Allowing such transfer in this case is likely to open a pandora's box. The fact that the admission was based on a Joint Entrance Examination and the Complainant's son had admittedly competed for IIIT Kota, but could not get a seat originally, establishes that there were candidates with higher merit for IIIT Kota. The seat being claimed by the Complainant was a seat of SC/PwD category, whereas the Complainant's son was from Gen/PwD category. There may be other candidates from Gen/PwD or SC/PwD who got higher marks than the Complainant's son and their rights for being considered can not be ignored. Moreover, the IIITs do not have any powers to take any decision regarding admission, for which there is a high power independent committee headed by a Director of an IIT.

5.5 In addressing this matter, we must refer to the relevant provisions of the Rights of Persons with Disabilities Act, 2016 (RPWD Act):

- a. Section 2(y) of RPWD Act: "Reasonable accommodation" means necessary and appropriate modification and adjustments, without imposing a disproportionate or undue burden in a particular case, to ensure to persons with disabilities the enjoyment or exercise of rights equally with others.
- b. Section 2(5) of RPWD Act: The appropriate Government shall take necessary steps to ensure reasonable accommodation for persons with disabilities.
- c. Section 16 of RPWD Act: Duty of educational institutions. - The appropriate Government and the local authorities shall endeavor

that all educational institutions funded or recognized by them provide inclusive education to children with disabilities and towards that end shall .... (iii) provide reasonable accommodation according to the individual's requirements.

5.6 The Concept of 'Reasonable Accommodation' is not new in Indian legal jurisprudence. Hon'ble Supreme Court in *JEEJA GHOSH v. UNION OF INDIA*; (2016) 7 SCC 761, noted that a key component of equality is the principle of reasonable differentiation and specific measures must be undertaken, recognizing the different needs of persons with disabilities, to pave the way for substantive equality. Principle of 'Reasonable Accommodation' acknowledges that in order to rectify the social problem of discrimination with divyang, affirmative conditions have to be created for facilitating the development of Divyangjan. This principle is not merely a formality, it is component of duty not to discriminate with Divyangjan hence the state is bound to provide these facilities to its Divyangjan. Hon'ble Supreme Court explained this in *VIKASH KUMAR v. UPSC*; 2021 SCC On Line SC 84.

*"54. The principle of reasonable accommodation has found a more expansive manifestation in the RPwD Act 2016. Section 3 of the RPwD Act 2016 goes beyond a formal guarantee of non-discrimination by casting affirmative duties and obligations on government to protect the rights recognized in Section 3 by taking steps to utilize the capacity of persons with disabilities "by providing appropriate environment". Among the obligations which are cast on the government is the duty to take necessary steps to ensure reasonable accommodation for persons with disabilities. The concept of reasonable accommodation in Section 2(y) incorporates making "necessary and appropriate modification and adjustments" so long as they do not impose a disproportionate or undue burden in a particular case to ensure to persons with disability the enjoyment or exercise of rights equally with others." Equality, non-discrimination and dignity are the essence of the protective ambit of the RPwD Act 2016."*

5.7 This Court is of the view that the present case is a very special case where

the request of the Complainant, which appears at the first look as innocuous and very reasonable, can not be allowed for want of a policy and a legal framework for dealing with the subject as such action may impinge upon the rights of other individuals. With the adoption of the New Education Policy 2020, the respondents should in future think about incorporating the provision of migration in their policy. A reading of the above statutory provisions also would indicate that the responsibility for providing reasonable accommodation and inclusive education rests with the appropriate government, which in this case is the Respondent No. 1.

5.8 In view of the foregoing, this Court is not inclined to recommend the transfer or migration of the student from IIIT Nagpur to IIIT Kota. However, it is important to recognize the principles of reasonable accommodation and non-discrimination outlined in the RPWD Act. The Act at Section 16 (iii) obligates educational institutions to provide reasonable accommodation according to the individual's requirements. As such, this Court recommends that the Respondent No. 2 shall consider with an open and positive mind, the request of providing accommodation to the student and the Complainant, i.e. the father and the caregiver of the student within the campus, so as to enable his holistic development during the course of his study.

5.9 This case is disposed of accordingly.

**(Rajesh Aggarwal)**  
Chief Commissioner for  
Persons with Disabilities



## न्यायालय मुख्य आयुक्त दिव्यांगजन

**COURT OF CHIEF COMMISSIONER FOR PERSONS WITH DISABILITIES (DIVYANGJAN)**

दिव्यांगजन सशक्तिकरण विभाग/Department of Empowerment of Persons with Disabilities (Divya ngjan)

सामाजिक न्याय और अधिकारिता मंत्रालय/Ministry of Social Justice & Empowerment

भारत सरकार/Government of India

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Email: ccpd@nic.in; Website: www.ccdisabilities.nic.in

**Case No. 14039/1141/2023**

**Complainant:**

Anushka Priyadarshini

Email – anushka0priyadarshini@gmail.com

**Respondent:**

- (1) The Secretary  
Railway Board  
Rail Bhawan, Rafi Marg  
New Delhi – 110001  
Email – secyrb@rb.railnet.gov.in
- (2) The Joint Secretary(Policy)  
Department of Empowerment of Persons with Disabilities (Divyangjan)  
Ministry of Social Justice and Empowerment  
5<sup>th</sup> Floor, Block B-I, B-II, B-III  
Paryavaran Bhawan, CGO Complex  
Lodhi Road, New Delhi – 110003  
Email – secretaryda-msje@nic.in
- (3) The Secretary  
Ministry of Health and Family Welfare  
Nirman Bhawan  
New Delhi – 110001  
Email – secyhw@nic.in

**Affected Person:** The Complainant, a person with 48% intellectual disability

**1. Gist of Complaint:**

1.1 Anushka Priyadarshini, a person with 48% intellectual disability has filed a complaint dated 14.04.2023 and submitted that Railway Board mandates to a certain class of disabled persons to obtain "Concession Certificate for Persons with Disabilities (Divyangjan) from the issuing doctor. In the Concession Certificate Form, a derogatory term is used for person with intellectual disability that is to say the term "Mentally Retarded Person" in used instead of the respectful term "person with intellectual disability". The Complainant further stated that the Railway Board is issuing of Separate ID cards to persons with disabilities in addition to UDID



Card for availing the concession, which is against the policy of Ministry of Social Justice and Empowerment.

1.2 Department of Empowerment of Persons with Disabilities (Divyangjan) (DEPwD) is being continually using the term "Mental Retardation" in the National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999. DEPwD amended the National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Rules, 2000 vide notification dated 27.04.2018 with no consideration of removing the slur word "Mental Retardation".

1.3 Ministry of Health and Family Welfare (MHFW) is also continuously using the term "Mental Retardation" in Medical Termination of Pregnancy (Amendment) Rules, 2021 which was notified by the Central Government on 12.10.2021 with the object of further amending the Medical Termination of Pregnancy Rules, 2003.

1.4 As per Disability Inclusive Language Guidelines which have been prepared by the United Nations Office at Geneva. These words should be avoided: -  
"Retarded, simple, slow, afflicted, brain-damaged, intellectually challenged, subnormal, of unsound mind, feeble-minded, mentally handicapped"

## **2. Submissions made by the Respondent:**

2.1 Under Secretary, DEPwD has endorsed a letter dated 06.07.2023 and directed to National Trust for file comments. However, no reply has been received from the National Trust.

2.2 Deputy Director, MHFW filed their reply dated 18.07.2023 and submitted that to substitute the word "Mental Retardation" in Medical Termination of Pregnancy (Amendment) Rules, 2021 is under examination with Mental Health and Welfare and Public Grievance Divisions.

2.1 Final Reminder was sent to the respondents on 04.07.2023. However, no reply has been received from Respondent No. 01; i.e., Railway Board.

## **3. Record of Proceedings:**

3.1 The case was heard via Video Conferencing by the Chief Commissioner for Persons with Disabilities on 22.09.2023. The following persons were present during the hearing:

1. Complainant : Anushka Priyadarshini
2. Respondent No 01 : None
3. Respondent No 02 : Shri Amit Shrivastava, US, DEPwD
4. Respondent No 03 : Shri Govind Bansal, Director, MoHFW

3.2 At the outset, the Court noted with concern the fact that the Respondent No. 3, has neither submitted any comments to the Notices and reminders issued in this case nor have they been represented in the hearing despite service of notice on time and repeated reminders telephonically. Such gross disrespect of an authority created by an statute of the parliament and vested by the statute with the powers of a civil court, is reprehensible. The Respondent is hereby informed that failure to furnish information sought by this Court in exercise of its mandate and power as contained in Section 75 and 77 of the Rights of Persons with Disabilities Act, hereinafter referred to as "the Act", is a punishable offence under Section 93 of the Act.

3.3 Respondent No. 2 informed the Court that they have already taken up with the Ministry of Law about replacing the word "mental retardation" with "Intellectual Disability". He also informed that an Order has been issued by the Ministry to the effect that till amendment in the

National Trust Act, 1999, the ministry and the national trust will use the word "intellectual disability" in the place of "mental retardation" in its day to day functioning or where it is not legally compelling to use the term used in the statute. He also informed that the name of the National Handicapped Financial Development Corporation has been changed to the National Divyangjan Financial Development Corporation.

3.4 Respondent No. 3 submitted that the Medical Termination of Pregnancy (Amendment) Rules, 2021 was amended during Aug-Sep 2021 only and at that time subject experts were consulted. But no one objected at that time. He also submitted that "Mental Retardation" is a medical term. The Court expressed its disagreement with the arguments of the Respondent and said that this is not a medical term and when its usage has been discontinued under the Act, the Respondent is also required to make necessary amends. Further, the Court sought to know as to what did they do after this discrepancy was pointed out to them by way of a notice in this case. The Respondent submitted that they will need some time to achieve this. The Court informed that impugned instrument being a rule, the substitution may not take much time.

3.4 The Court sought to know from the Complainant if there was any other issue that she wants to raise. The Complainant expressed her satisfaction with the proceedings.

#### **4. Observation And Recommendation**

4.1 The Court observed that the issues related to railway concessions for persons with disabilities involve restriction of types of disabilities, of the validity period of the concession certificate and of the propriety and legality of a separate certificate for this purpose despite clear provisions of Section 58 (3) of the Act read with Rule 19 of the RPwD Rules, 2017. As such, they are both pertinent and urgent to be resolved. However, since these are larger issues touching upon the commercial interest of Respondent No. 1, it may not be appropriate to discuss them in their absence. A separate case, on this issue alone may be taken up with the Ministry of Railways and the Department of Empowerment of Disability by this Court under its powers to take suo motu cognizance under Section 75 (1) (a) & (b) of the Act, of any inconsistency of any law with the provisions of the Act and deprivation of rights of persons with disabilities or discriminating with them on the ground of disability.

4.2 On the issue of replacing the term "mental retardation" with "intellectual disability", the respondents are directed to ensure that in the laws, rules, instructions, scheme and policies under their charge including in the impugned instruments, necessary amendments are brought within a period of three months and an Action Taken Report in this regard be shared with this Court.

4.3 This case is disposed of accordingly.

**(Rajesh Aggarwal)**  
Chief Commissioner for  
Persons with Disabilities

Signed by Rajesh Aggarwal  
Date: 10-10-2023 14:50:13  
Reason: Approved



## न्यायालय मुख्य आयुक्त दिव्यांगजन

**COURT OF CHIEF COMMISSIONER FOR PERSONS WITH DISABILITIES (DIVYANGJAN)**  
दिव्यांगजन सशक्तिकरण विभाग/Department of Empowerment of Persons with Disabilities (Divya ngjan)  
सामाजिक न्याय और अधिकारिता मंत्रालय/Ministry of Social Justice & Empowerment  
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**Case No. 13943/1031/2023/191746**

### Complainant:

Anushka Priyadarshini  
H No – 68, River Valley, Gate Number – 3,  
Kamaluwa Ganja Gaur, Haldwani,  
Nainital – 263139  
Email – anushka0priyadarshini@gmail.com

### Respondent:

Registrar  
National Sports University  
Kang Sang, Khuman Lampak,  
Imphal, Manipur – 795010  
Email – registrar@nsu.ac.in

**Affected Person:** The complainant, a person with 48% intellectual disability

### 1. Gist of Complaint:

Anushka Priyadarshini, a person with 48% intellectual disability filed a complaint dated 07.03.2023 and submitted that National Sports University (NSU) has not reserved 5% of its seats in admission for Persons with Benchmark Disabilities for various courses.

### 2. Submissions made by the Respondent:

2.1 The Registrar, National Sports University filed reply on affidavit dated 27.06.2023 and submitted inter-alia that the matter providing 5% reservation for PwDs was brought before the Third Academic and Activity Council of the University for consideration and guidance. The Council discussed the matter and noted that the Sports Education and Training to PwD along with able bodied persons in an inclusive manner involves several technical issues such as benchmarking, classification of disabilities, standards of test etc. which should be resolved and laid down in consultation with the experts in the field. Constitution of PwDs committee was suggested by the Council to prepare a detailed plan/road map with the help of experts as the new University Campus is ready.

2.2 The PwD committee was constituted accordingly and eligibility guidelines for PwDs candidates, their types and classes of disabilities for admission in existing courses to fulfil 5% reservation of PwDs along with a curriculum for certificate, add on and diploma courses in

athletics, archery, badminton, swimming and shooting is in the making.

### **3. Submissions made in Rejoinder:**

3.1 The Complainant in their rejoinder dated 17.07.2023 has reiterated the complaint and submitted that it has been more than 6 years and still the existing University building has not been made accessible in accordance with the rules formulated by the Central Government with a period not exceeding five years for the date of notification i.e., 15.06.2017.

3.2 This Court in Case No. 12853/1032/2021 dealt with the Respondent University with the similar issue, which was decided by this Court on 01.02.2022, where the respondent National Sports University assured this Court under oath that the new campus of the University should commence from session 2022-23 and also asserted that the NSU was not bound to make any changes in the rented space. Also, the reservation of PwD can be given as per para 5.3 of the decided case no. 12853/1032/2021 but the respondent did not do the same.

### **4. Record of Proceedings:**

4.1 The case was heard via Video Conferencing by the Chief Commissioner for Persons with Disabilities on **25.04.2023**. The following persons were present during the hearing:

1. Complainant : Anushka Priyadarshini
2. Respondent : Dr. Shyam Sundar, Associate Professor

4.2 At the outset the Court observed that the Act was promulgated in 2016 and the rules came in 2017. The reservation in admission came into force immediately on the notification of the Rules whereas the time frame of 5 years for making the building and the campus accessible as given in Section 45 of the Act, is also already over. The submission of the Respondent that a policy is being framed can not be accepted. Accessibility of the building is not a new law. The Building Bye-laws were issued in 2003 itself. The Court sought the response of the Respondent first.

4.3 The Respondent submitted that they are working under severe constraints. The building from where the University is functioning from is a rented accommodation. The B.Sc Course in 8 disciplines have just been started from this year. He submitted that from the next academic session, they will provide reservation of 5% in all the bachelor courses. The Court sought the response of the Respondent about the denial of reservation and deprivation of the legitimate rights of student with disabilities. The Respondent submitted its willingness to make amends and re-assured the Court of providing the due reservation from the next year. He also submitted that so far no student with disability had made any complaint regarding this. The Court was not satisfied with the response.

4.4 The Court asked the Complainant to present their case briefly. The complainant submitted that she is studying in Class 12. She has not applied for the course in the Respondent's University. She will be eligible in the next year.

### **5. Observation & Recommendation:**

5.1 Keeping in view of the fact that the Complainant is not yet aggrieved by the act of the Respondent, this Court is not inclined pass any order in the individual complaint. However, if any aggrieved person files a similar complaint, this Court will be constrained to initiate the proceedings again. The Respondent is directed to ensure that the provisions of the Act including but not restricted to Sections 3, 16,17, 20, 21, 23, 32,33, 34, 40, 45 and 46 of the Act are duly implemented without further delay.

5.2 A Compliance/Action Taken Report in this regard be submitted within 3 months from the date of this Order.

5.3 The Case is disposed of accordingly.

**(Rajesh Aggarwal)**  
Chief Commissioner for  
Persons with Disabilities



सत्यमेव जयते

## न्यायालय मुख्य आयुक्त दिव्यांगजन

**COURT OF CHIEF COMMISSIONER FOR PERSONS WITH DISABILITIES (DIVYANGJAN)**  
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5<sup>th</sup> Floor, N.I.S.D. Bhawan, G-2, Sector-10, New Delhi-110075; Tel.: (011) 20892364  
Email: ccpd@nic.in; Website: www.ccdisabilities.nic.in

**Case No. 13942/1021/2023**

### **Complainant:**

Ms. Priyanka Bhatt  
D/o Ramesh Chandra Bhatt  
Flat No. 62102, Building No 62,  
AIIMS Residential Complex,  
Rishikesh, Uttarakhand - 249201  
Email - pinku.bhatt71@gmail.com

### **Respondent:**

The Director,  
All India Institute of Medical Science  
Rishikesh, Uttarakhand - 249201  
Telephone No - 0135 - 2462940  
Mobile No - 8475000251  
Email - director@aiimsrishikesh.edu.in

**Affected Person: Complainant, a person with 45% Locomotor Disability**

### **1. GIST OF COMPLAINT:**

1.1 The Complainant, Ms. Priyanka Bhatt, claims that she joined AIIMS, Rishikesh, as a Nursing Officer, hereinafter referred to as the NO (Level-7 of 7th CPC pay matrix) on 19.02.2019. She is currently posted in CTVS O.T. at AIIMS, Rishikesh.

1.2 She received confirmation in the post of NO on 19.02.2021, vide AIIMS/Rishi/203/CS/Prob/No dated 02.02.2022, Sl. No. 339. On 17.08.2022, the impugned order No. AIIMS-Rishi/SNO/DPC/207/7532 for the promotion of 305 Nursing officers (Level-7) to Senior Nursing Officer hereinafter referred to as the SNO (Level-8 of 7th CPC pay matrix) was issued effective from 01.08.2022, i.e., the date of the meeting of DPC.

1.3 As per the recruitment rule for non-faculty posts of AIIMS, Rishikesh, 2015, amended from time to time, 03 years of regular service as a NO is required for promotion to SNO, which she completed on 19.02.2022.

1.4 In the DPC held on 01.08.2022, she was not considered for promotion, despite completing the requisite period on 19.02.2022. Additionally, the 4% reservation for PwBD (Persons with Benchmark Disabilities) in promotion was not taken into account in Group-B posts, as per the DoPT OM No. 36012/1/2020-Estt. (Res-II) dated 17.05.2022.

1.5 The Complainant made the following prayers:

(a) Issue direction to the Institute for implementation of 4% reservation for PwBD in post of SNO and fill all reserved vacancy in the grade immediately by the eligible PwBD nursing officers as in her case she was overdue by one year.

(b) Issue direction of Maintenance of 100 points vacancy based reservation rosters in all grades in the Institute.

(c) Issue direction to the institute for conducting sensitization programmes about issues related to disability.

## **2. SUBMISSIONS MADE BY THE RESPONDENT:**

2.1 The Respondent vide letter dated 11.05.2023 submitted that the DPC for promotion of NO to the grade of SNO was held on 01.08.2022. All the candidates belonging to 2017 and 2018 batch (307) were considered for promotion by DPC as per seniority list. Ms. Priyanka Bhatt belongs to 2019 batch.

2.2 The Respondent further submitted that as per the DPC guidelines, various documents such as APAR Dossiers, Vigilance Clearance, Seniority List, Minor/Major penalty certificate etc. have to be placed before the DPC for considering a candidate for promotion. As the seniority list of 2019 batch candidates could not be prepared at the time of DPC due to administrative constraints, the candidates of 2019 batch were not considered for promotion.

1.3 The provisional seniority list of 2019 batch have now been uploaded on the institute's website on 14.03.2023 for calling comments/objections of all stakeholders, if any, till 08.04.2023. Comments/Objections received till last day will be examined and accordingly final seniority list will be prepared.

1.4 Further, it is submitted that three candidates of 2017 and 2018 batch have filed an OA in Hon'ble Central Administrative Tribunal (CAT), Nainital Circuit Bench for re-fixation their seniority and the matters are still sub-judice. Due to this, there was a delay in finalizing the seniority list of NOs. Despite this, the provisional seniority list of 2019 batch has been circulated so as to avoid any further delay in

promotion of eligible candidate of 2019 batch. Three posts of SNO will be kept unfilled till the final verdict of Hon'ble Court and the remaining posts will be filled up by promotion as per the reservations rules/guidelines.

1.5 The Respondent submitted that the Institute is scrupulously following all the Guidelines relating to rights of Persons with Disabilities including 4% reservation for PwBD candidates. No PwBD candidates of the Institute have been denied promotion and no seat earmarked for PwBD candidate has been given to other candidates.

1.6 The Respondent further submitted that the institute has already started formalities viz. preparation of seniority list, collection of APAR/Vigilance Clearance/Major & Minor penalty certificate, verification of reservation roster by Liaison Officer etc. On completion of these formalities, meeting of DPC will be held and the remaining vacant seats of promotional quota in SNO grade will be filled up by promotion of eligible NO of 2019 batch including Ms. Priyanka Bhatt. The entire process is likely to be completed in next 2 months in normal course.

### **3. SUBMISSIONS MADE IN REJOINDER:**

3.1 The Complainant in her Rejoinder dated 15.05.2023 stated that the seniority of direct recruits in this case is in the order of merit in which they were selected for the appointment. All the candidates of 2019 joined the Institute in the year 2019 itself, even after three years on 01.08.2022, which is the date of convening of the DPC, the Institute was unable to prepare a seniority list, and there is no unavoidable reason for the same. The administrative constraint is a disguise for negligence and non-accountability, resulting in the deprivation of due benefit of promotion for almost one year. This delay will also reflect in her subsequent promotions due to the minimum residency period.

3.2 The Complainant further submitted that no interim relief order has been issued by the Hon'ble Tribunal for the same. The unnecessary mention of the OA is just a facade for the administrative inefficiency of the institute. It took more than 3 years to prepare a seniority list and even after the final seniority list of the 2019 batch was prepared on 06.05.2023, her due benefit has been delayed by one year and is still counting.

**4. Hearing:** The case was heard via Video Conferencing by Chief Commissioner for Persons with Disabilities on 04.09.2023. The following were present in the hearing:

- (1) Ms. Priyanka Bhatt, Complainant
- (2) Shri Pradeep Chand Pandey, Law Officer **-Respondent**

**5. Record of Proceedings:** The matter was heard on 06.09.2023 and



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the following information was sought within 10 days from the Respondent:

- a. Provide information on how many PwD employees from the 2017 and 2018 batches were promoted in the August 2022 promotion exercise.
- b. Clarify whether any PwD employee promoted in August 2022 benefited from the reservation in promotion for PwDs or was solely promoted based on overall seniority.
- c. Determine with an open mind whether the Complainant could have been considered for promotion in the August 2022 DPC, if she was already eligible and there was a vacancy reserved for PwD and that no other PwD candidate was available for considered for promotion.

6. Despite lapse of considerable time, no information was received from AIIMS Rishikesh. Accordingly, it was decided to hold another hearing in the matter by the Chief Commissioner for Persons with Disabilities on 09.10.2023 via video conferencing. The following were present:

1. Ms. Priyanka Bhatt, Complainant
2. Shri Gaurav Badola, Admin Officer –**Respondent**

## **7. Record of Proceedings:**

7.1 At the outset, the Court asked the Complainant as to whether any employee from her batch or her junior batch has been promoted to the post of SNO. The Complainant confirmed that no such has so far been promoted. The Complainant submitted that she joined her service in Feb, 2019 and completed the requisite qualifying service of 3 years for promotion to the grade of SNO in Feb, 2022. She was, however, not considered in the DPC held in August, 2022 only because of the negligence in and inaction on the part of the Respondent who did not follow 4% reservation for PwD and also did not maintain the reservation rosters for the PWD.

7.2 In response to the query of this court with regard to information sought vide ROP dated 06.09.2023, the respondent submitted that in 2022 the entire 2017 and 2018 batches of NO including one employee with disability namely Ms. Anjana Kumari, were promoted. He also confirmed that reservation rosters PwBD is being maintained by the hospital. He also confirmed that Ms. Anjana Kumari got covered under her own merit-cum-seniority. He further confirmed that in the impugned DPC of August 2022, no NO of 2019 batch was considered because their APAR and other documents of the dossier as per the check list prescribed for the DPC, were not available. The Court sought whether there is any stay by the CAT (Principal Branch) on further promotions and whether there is any plan to promote 2019 batch any time soon. The respondent informed that they have already promoted officers from 2019 batch on 30 June 2023, according to the eligibility of candidates and the availability of the vacancies. However, being a large

batch, all the officers the of 2019 could not be promoted. The Complainant and two other employees with disabilities have also been promoted in the same list.

7.3 The court asked the Complainant to inform what is her outstanding grievance and how the institute has denied any of her rights or violated any law, rule, instructions. The Complainant informed that she was eligible from 2022 but her promotion got delayed.

### **8. Observations and Recommendations:**

**8.1** The Court observed that if the contention of the complainant is accepted than the whole batch of 2019 was eligible before the DPC in August 2022. None of them including from reserved categories were promoted in that DPC. So in such a scenario, the Complainant cannot have any legitimate grievance except that the promotion was delayed. This court is interested to see that there is no discrimination with any person on account of his or her disabilities. The level of efficiency of the administration is not the mandate of this court. This court is not convinced that there has been any discrimination against the complainant. The Complainant has not been able to show any discrepancy in preparation of the roster by the Respondent, neither has she been able to make a case that any vacancy reserved for PwBD has not been filled by the Respondent. It can be said that the Respondent delayed promotions of the entire batch by few months but no discrimination is apparent. It is also to be noted that the batches of 2017 and 2018, on whom also the same qualifying services of 3 years was applicable, got their promotions only in August, 2022.

8.2 In view of the above this court is not inclined to intervene in the matter.

8.3 This case is disposed of accordingly.

**(Rajesh Aggarwal)**  
Chief Commissioner  
for Persons with Disabilities



न्यायालय मुख्य आयुक्त दिव्यांगजन

**COURT OF CHIEF COMMISSIONER FOR PERSONS WITH DISABILITIES (DIVYANGJAN)**  
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**Case No: 13800/1024/2023**

**In the matter of:**

**Complainant:**

Shri Ajay Kumar Shukla  
SDE (NOFN-II)  
O/o Chief General Manager  
BSNL MP Telecom Circle  
Bhopal (MP), Pin- 462015  
Email: [ajay1977shukla@gmail.com](mailto:ajay1977shukla@gmail.com)  
Phone- 9425325220

**Respondents:**

1. The Sr. GM (Transmission)  
(By name: Shri Manoj Kumar),  
O/o Chief General Manager  
BSNL MP Telecom Circle  
Bhopal (MP), Pin-462015  
Email: [gmnofnmp@rediffmail.com](mailto:gmnofnmp@rediffmail.com)  
Phone: 9425001660
2. The GM (Admin/HR)  
(By name: Shri Vinod Kumar),  
O/o Chief General Manager  
BSNL MP Telecom Circle  
Bhopal (MP), Pin- 462015  
Email: [gmpbsnl@gmail.com](mailto:gmpbsnl@gmail.com)  
Phone : 9425922799

## **1. Gist of the Complaint:**

1.1 Shri Ajay Kumar Shukla, a person with 55% locomotor disability filed a complaint dated 03.01.2023 and submitted that he was working as a Sub-Divisional Engineer (L/A) in BSNL, O/o CGMT Bhopal since 09.05.2018 and joined service in BSNL as Junior Engineer (Telecom) on 13.01.2003. He has been assigned to perform tours to a place Shahpur about 170 Kms away from his regular place of duty. He was also assigned job full of touring/traveling in nature, without keeping his disability in mind. He requested the management for assigning jobs as per PwD norms/DOPT guidelines. No attention was, however, given to his representation.

1.2 He further submitted for indoor office job or providing for official escort during touring job. Office has neither provided indoor jobs nor provided official escort to perform tour. He was served "dies non" orders by office for the day on 8th & 9th Dec, 2022 on the ground that he had not proceeded on tour even though he had attended duties on both the days at his regular place of posting, and was trying to find an escort assistant on own expense to perform official tour as instructed by office.

1.3 He also submitted that by arranging own escort , he undertook the tour on 10th Dec, 22 to 16th Dec, 2022. Whenever he had been sent on official tour/training, the office has never provided official escort and till date he had been arranging own escort and paying from his own pocket for same. There is no provision made by BSNL MP circle to enable him to apply for Special Casual Leaves in office ERP portal through which leaves are applied to and granted. Due

to this reason he had not been able to avail four leaves since the date of DoPT order .

1.4 He made the following prayers:

i. He may be assigned indoor jobs at work place only as per DoPT guidelines and PwD norms and not be forced to perform touring/traveling jobs considering his genuine problem of locomotive disability.

ii. In exceptional cases where touring/traveling/training jobs are assigned, an official escort assistant be provided to him.

iii. Dies non orders for the working day 8th & 9th Dec-2022 even though he had performed office duties at regular place may please be cancelled.

iv. Provisions may please be made in BSNL ERP to enable him to apply for SPCL.

v. Necessary clear instructions may be issued by BSNL MP Circle Administration about grounds on which SPCL shall be granted and sanctioning of the same.

vi. SPCL which could have not been availed by him since the date of DoPT guidelines i.e. for last 15 years which amount to 60 days be credited with 60 days EL.

vii. Expense made by him on escort arrangement may please be paid to him since the date of issuance of guidelines to till date.

**2. Submissions made by the Respondent:**

2.1 Deputy General Manager (Admn), Bharat Sanchar Nigam Limited filed their point wise reply dated 15.04.2023 on behalf of Respondent No. 2, and submitted that at work

place of the officer i.e. CO Bhopal, all sections have tour and traveling job. Such type of indoor jobs is available at present in Vidisha, Raisen OA. If requested by the officer then his case may be considered sympathetically as per BSNL's Employee transfer policy. No such type of ruling is available in this office to give indoor jobs. Guidelines/ruling regarding same has been called from BSNL Corporate Office New Delhi. Also officer has not submitted any ruling in support of the same. If any such rule provided by concerned officer then his request will be considered as per rule.

2.2 Respondent submitted that dies non order has been issued to the officer as per BSNL CDA Rules, 2006. The officer is at liberty for representing his case for review to the competent authority. Provision for applying Special CL as per the request of officer for calendar year 2023 has already been done in BSNL ERP as per rule. Respondent submitted that the specific/standing instructions regarding grant and sanction of Special CL has already been issued. No such rule/guidelines is available in this office regarding compensation of EL with previous special CL.

2.3 Vide their E-mail dated 21.09.2023, the Respondent also informed that a parallel proceeding is also going on before the Commissioner for Persons with Disabilities, Govt of Madhya Pradesh.

### **3. Submissions made in Rejoinder:**

3.1 Shri Ajay Kumar Shukla filed rejoinder dated 02.03.2023 and inter-alia submitted that the (SDE/JTO cadre) posts in CO, BSNL Bhopal where he was working at present are of indoor nature. There are many sections which are having mostly indoor jobs such as the RTI Section, Welfare Section, Establishment & HR Section, CFA and CM

Section and on all these posts not a single divyang person is posted.

3.2 He requested to get the guidelines dated 17.02.2015, implemented from the date of applicability given in this letter. He had performed the office duties on 8th & 9th Dec, 2022 at his regular place of posting. Despite, attending to his duties, he had been treated dies non for 8<sup>t</sup> h & 9th December-22. Dies non order issued, by Sr. GM (Tx) Shri Manoj Kumar, for these both days.

3.3 He also requested that as per DoPT guidelines provisions for four days Special Casual Leave be allowed and provisions for the same be made in the ERP for applying for the SCL by users.

**Hearing:** The case was heard via Video Conferencing by Chief Commissioner for Persons with Disabilities on 22.09.2023. The following were present:

**Complainant**

Sh. Ajay Kumar Shukla : Complainant

**Respondents**

Dr. Hari Prasad Sexena : (Adv.) BSNL

Sh. Keshav Kumar : BSNL

Sh. Manoj Kumar : PGM, Admn. BSNL

**4. Record of Proceedings:**

4.1 The Complainant was asked to submit his case in brief. He submitted that he joined the BSNL as Junior Engineer in 2003 at its Jabalpur office and continued to work there till 2014. Between 2014 to 2018, he was posted at Reeva, after which he joined in the Bhopal circle on transfer. He has been facing discrimination and harassment

at his new office at Bhopal. He is being repeatedly sent on long tours. No TA/DA advance was allowed. Carrying luggage which is heavier during winter season and traveling in a public transport is very difficult to manage with his disability of having no claws in his right hand. His representations in this regard have attracted hostility and humiliation by his superiors and colleagues. It is being taunted that I have no disability or that I undertake personal travels but oppose being sent out on official duties. The respondents have failed to understand that traveling with family or friends as per one's own convenient planning can not be compared with traveling alone on official duty. Moreover, other officials including his own link officers are not sent on outstation duties with as frequently. He submitted that he has no problem in undertaking a travel of 1-2 days, but for a longer duration, he may be provided an escort. However, instead of resolving the issue, he was threatened to be posted to Vidisha.

4.2 He submitted that after just completing a tour on 04.11.2022 to Shahpur, Betul which is 170 Kms from his headquarter by arranging escort at his personal expense, he was again ordered to undertake a journey vide Order dated 25.11.2022. He submitted a representation on 5th December 2022 expressing his inability to perform the tour. However, instead of considering his request in the light of the RPwD Act and the relevant rules and instructions, the period of 8-9 December 2022 has been treated as dies non. His representation against the order of Dies-Non has not been responded to till date.

4.3 He also submitted that the BSNL has not extended the 4 days' Special Casual Leave for employees with disability allowed by the DoPT since November 2008, which are over



and above the Casual Leave permissible in a calendar year. He requested for adjusting his EL account by granting SCL at the rate of 4 days per year for the last 15 years.

4.4 The Respondent submitted that in the past, the Complainant has already done many tours and he never demanded escort. This time there was a PM's programme in this sector and everyone from the section of the Complainant was sent on tour. The Company has always been sympathetic to his concerns. Two years back he sought to be temporarily attached to Reeva to take care of his ailing father. He was allowed three months stay at Reeva. However, of late he is becoming prejudiced with the department. The Respondent further submitted that the Complainant is capable of undertaking such tours and he could have taken the help of other persons travelling on the same route. On this the Complainant stated that no one was sent with him neither was he informed about the tour programme of any other officer. Sh. Manoj Kumar, PGM read out from the Office Order and informed that two employees namely Sh. KK Swani and Sh. Ajay Kumar Shukla were deployed through the same order. This Court sought to know, whether taxi charges are admissible for officers of the level of the Complainant. And whether the Company has any special policy for deployment, assistance or reimbursement of escort/taxi charges. The respondent confirmed that there are no such special orders for a person with disability working in their company.

4.5 On the query of this Court as to how many days the Complainant was sent on tour in the last six months vis-a-vis his deployment of other colleagues in the same section during the same time, the Respondent said that they do not have the information readily available with them and that

they shall submit a report on this immediately after the hearing.

4.6 On the issue of Special Casual Leave the Respondent submitted that the 4 days' Special Casual Leave allowed by DoPT to employees with disabilities over and above the 8 days' Causal Leave allowed to non-disabled employees of the Central Government has not been extended in the BSNL as 12 days' Casual Leaves are already allowed to all employees of the company. Thus, the question of grant to additional 4 days of Special Casual Leave does not arise in their establishment.

4.7 Further, on the issue of treating the period of 8-9 December, 2022 as dies-non, the Court asked as to whether the Respondent followed the procedure laid down in this regard at FRs 17 (i), 17 A, GIDs there under and DoPT OM No. 13026/3/2010-Estt. (Leave) dated 22.06.2010 before issue of the Order of Dies Non. The said instructions require that a Show Cause Notice has to be issued informing the individual of the consequences of the unauthorized absence and directing him/her to rejoin the duties within a specified date. The Respondent could not answer this question readily but the Complainant stated that no such process was undertaken. He also submitted that during the dates declared as dies non, he was present and working in his office but didn't undertake the tour as his representation against the deployment was pending with the respondents.

## **5. Observation and Recommendation during the Hearing**

5.1 This Court observed that personal tour with family and friends is not comparable to official tours. However, the Court was also dismayed at the lack of communication

between the Complainant and the senior officials of the Respondent. If the statement of the Respondent regarding more officers being sent on outstation duty is true then the Complainant could very well have managed such tours with the help of his colleagues. It is astonishing that he was not aware and he did not try to find out the programme schedule of his colleagues.

5.2 The Court was also not inclined to agree with the Respondent on equal treatment of disabled and non-disabled employees with regard to grant of Special Casual Leave. Section 3 and 20 of the Act obligate the government establishments to allow reasonable accommodation to persons with disabilities. Equal treatment of employees with disabilities with their non- disabled counterparts in the establishment reeks of discrimination and is apparently unjust.

5.3 The Respondent has relied upon the DoPT OM No. 25011/1/2008/Estt. (A) dated 19.11.2008, where 4 days' SCL was allowed over and above the 8 days of CL in a calendar year for non-disabled employees. In the said OM also, the ground for grant of these 04 SCLs was mentioned as "for specific requirements relating to the disability of the official". The DoPT vide their OM No. 36035/3/2013/Estt. (Res) dated 31.03.2014 has reiterated the aforesaid provision without linking the same with the number of Casual Leave allowed to non- disabled employees of central government. The aforementioned SCLs are in addition to the 8 days of SCL per year permissible to an employee with disability for taking part in recognized training programme/seminar/workshop, etc.

5.4 The contention of the Respondent that the instruction dated 31.03.2014 has not been extended to the BSNL is

factually incorrect as The Department of Public Enterprises have already circulated these instructions vide their circular no. 6(09)/2006- DPE (SC/ST Cell) dated 07.04.2014 and again very recently vide their OM No. DSPE- GM-0043/2014-GM (FTS-1899) dated 05.04.2023.

5.5 Moreover, sections 3 and 20 of the RPwD Act provide for reasonable accommodation to person with disabilities. Section 21 of the Act read with Rule 8 of the RPwD Rules provides the manner of publication and registration of Equal Opportunity Policy (EOP) by government as well as private establishments. Rule 8, sub-rule (3) (c) of the RPwD Rules, 2017 mandates every establishment to incorporate inter alia provisions related to Special Leave for persons with disabilities in their EOP. It is clearly not the case of the Respondent to say that in their establishment, the number of Special Leave is zero.

5.6 The Court directed the Respondent to furnish their comments along with relevant records on its following queries by 25.09.2023:

(i) Details of deployment of the Complainant for outstation duties/tour in the last six months vis-a-vis the same for his colleagues in the same section during the same time.

(ii) Copy of any communication sent to the Complainant before declaring 8-9 December, 2022 as dies non.

5.7 The Court also allowed the Complainant to make written submission, if any.

## **6. Responses of Parties**

6.1 Vide e-mail dated 23.09.2023, the Respondent submitted that four officers other than the Complainant

were deployed on the tour. All of them complied with the orders, but the Complainant failed to do so. On the issue of dies non, the Respondent submitted that on non compliance of the Order, a reminder was sent to the Complainant on both occasions and only then the days, 8th and 9th of December, 2022 were declared by the Respondent as dies non.

6.2 The Complainant also submitted some additional points alleging harassment including physical assault on 27.06.2023 by the staff of the PGM (Transmission) and no action by the senior officers despite his representations dated 13.01.2023, 28.06.2023 & 03.07.2023 and personal meetings. He also enclosed a copy of Communication dated 03.12.2022, whereby the AGM (Welfare) of the Respondent Company sought explanation against a complaint regarding nuisance in P&T Officer's Enclave, as to why allotment of Quarter should not be cancelled.

## **7. Observation and Recommendation**

7.1 Upon considering the submissions of the parties, this Court is of the opinion that the whole dispute has arisen due to lack of policy framework, lack of understanding of the statutory provisions and government instructions and more than anything else, lack of inter personal communication. Responsibility in this regard is more on the Respondent than the Complainant. Section 20 (2) of the RPwD Act provides that-

***"Every Government establishment shall provide reasonable accommodation and appropriate barrier free and conducive environment to employees with disability."***

7.2 The word "barrier" used here has been defined at

Section 2 (c) of the Act ***as "any factor including communicational, cultural, economic, environmental, institutional, political, social, attitudinal or structural factors which hampers the full and effective participation of persons with disabilities in society"***.

7.3 This Court cannot support any act of indiscipline or insubordination. The Conduct Rules of the Respondent Company (2006) provides at Rule 4 (2) (b) that ***"No employee shall, in the performance of his official duties, or in the exercise of powers conferred on him, act otherwise than in his best judgment except when he is acting under the direction of his official superior" . Hence, the action of the Complainant of not complying with a written order of the Respondent was improper.***

7.4 From the reply of the Respondent dated 23.09.2023, it is evident that the procedure for declaring period of unauthorized absence has not been followed by the Respondent. Submissions of the Complainant that -1) He was present at the Bhopal office on those days, and 2) His representation against the outstation duties was pending, are also relevant facts for reaching an appropriate decision on treatment of the period. Accordingly, this Court recommends that the Respondent shall review its decision by taking into account the position of laws, rules and instructions in this regard.

7.5 The Respondent shall also review its position on the grant of Special Casual Leave in the light of provisions delineated at para 5 above and prepare their Equal Opportunity Policy, get the same registered with this Court and publish the same on their website. Details of Grievance Redressal Officers mandated under Section 23 of the Act

should also be shared with this Court along with the Compliance/Action Taken Report of the Respondent.

7.6 As the CMD of the Respondent Company has not been made party in this matter, it is hereby directed that a copy of this Order be endorsed to him with a direction to get the complaint of assault and all other matters raised by the Complainant and being disposed with this Order, be looked into by the CMD and an Action Taken Report be submitted to this Court within 3 months from the date of this Order. In case the Respondent fails to submit the Compliance Report within 3 months from the date of the Order, it shall be presumed that the Respondent has not complied with the Order and thus, this Court will be constrained to report the matter to the Parliament in accordance within Section 78 of Rights of Persons with Disabilities Act, 2016 besides initiation of penal proceedings under Chapter XVI of the Act.

7.7 A copy of this Order be also sent to the State Commissioner for Persons with Disabilities, Govt. of Madhya Pradesh with a request to dispose the matter pending before him as per Section 75 and Section 80 of the Act.

7.8 This case is disposed of accordingly.

**(Rajesh Aggarwal)**  
Chief Commissioner for  
Persons with Disabilities



न्यायालय मुख्य आयुक्त दिव्यांगजन

COURT OF CHIEF COMMISSIONER FOR PERSONS WITH DISABILITIES (DIVYANGJAN)

दिव्यांगजन सशक्तिकरण विभाग/Department of Empowerment of Persons with Disabilities (Divya ngjan)

सामाजिक न्याय और अधिकारिता मंत्रालय/Ministry of Social Justice & Empowerment

भारत सरकार/Government of India

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Email: ccpd@nic.in; Website: www.ccdisabilities.nic.in

केस संख्या 14178/1024/2023

परिवादी :

श्री गजेन्द्र कुमार

गांव- धारी खुर्द

धनौरीकलां

जिला एवं तहसील- गौतमबुद्ध नगर

उत्तर प्रदेश- 203201

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प्रतिवादी:

माननीय कमिश्नर

केन्द्रीय विद्यालय संगठन

18, इंस्टीट्यूशनल एरिया, शहीद जीत सिंह मार्ग

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परिवाद का सार :

1 . 1 श्री गजेन्द्र कुमार, 75% लोकोमोटर अक्षमता वाले व्यक्ति, ने दिनांक 02.03.2023 को अपने पुत्र को अनुकम्पा के आधार पर नौकरी दिलाने के सम्बन्ध में शिकायत की |

1.2 शिकायतकर्ता का अपनी शिकायत में कहना है कि वह गुवाहाटी मंडल के केंद्रीय विद्यालय न्यू बोंगईगांव रेलवे कॉलोनी में ग्रुप डी के पद पर कार्यरत थे| उस दौरान उनके साथ एक घटना घटित हो गयी जिसके कारण वह गंभीर रूप से घायल हो गया जिसके कारण उनका इलाज दिल्ली



के सफदरजंग हस्पताल में चला। उन्हें हॉस्पिटल तथा अन्य अधिकृत सक्षम विभागों के द्वारा 75 प्रतिशत से ज्यादा विकलांग घोषित कर दिया गया। इस दौरान वह अपनी मानसिक स्थिति खो बैठे। अपनी ऐसी मानसिक स्थिति के कारण वह इस बात की सूचना अपने विभाग को नहीं दे पाए और उस दौरान उनकी नौकरी से सम्बंधित कागजात गुम हो गए थे। वह अपने पुत्र प्रदीप कुमार शर्मा जिनकी पत्नी का देहांत हो गया था, के साथ रहता है। इस समय उनके परिवार में 5 सदस्य हैं, इसमें से किसी के भी पास रोजगार नहीं है।

1 . 3 शिकायतकर्ता ने कहा कि इस सूचना के आधार पर उसने क्षेत्र के अधिकारी को अपनी स्थिति के बारे में अवगत कराया और उनसे प्रार्थना की कि उन्हें नौकरी पर रखने का कष्ट करें। इस पत्र के उत्तर में उन्होंने उन्हें अवगत कराया कि कोई भी ऐसा नियम नहीं, जिसके कारण आपको इतने लम्बे समय पश्चात् पुनः नौकरी पर रखा जा सके। शिकायतकर्ता ने प्रार्थना की कि उनके पुत्र प्रदीप कुमार शर्मा जिसकी उम्र 29 साल है तथा दसवीं पास है, उसे अपने केंद्रीय विद्यालय संगठन में ग्रुप डी के पद पर नौकरी दिलाने की दया करें।

## 2. प्रतिवादी द्वारा प्रस्तुत उत्तर-

2.1 निर्धारित समय बीत जाने पर भी प्रतिवादी द्वारा कोई उत्तर प्राप्त नहीं हुआ है।

## 3. परिवादी द्वारा प्रस्तुत प्रत्युत्तर –

3.1 परिवादी से प्रतिवादी के उत्तर पर कोई प्रत्युत्तर प्राप्त नहीं हुआ है।

4. सुनवाई – इस परिवाद में विडियो कॉन्फ्रेंसिंग के माध्यम से मुख्या आयुक्त दिव्यांजन द्वारा दिनांक 22.09.2023 को सुनवाई कि गई। सुनवाई में निम्नलिखित व्यक्ति उपस्थित हुए –

(1) परिवादी कि तरफ से श्री स्वरण स्वरूप दुबे उपस्थित थे परन्तु उन्होंने अपने उत्तर में कुछ नहीं कहा।

(2) प्रतिवादी से श्री दीपक कुमार डबराल (सहायक आयुक्त) उपस्थित हुए।

## 4. अवलोकन/अनुशासण -

4 . 1 प्रतिवादी ने अपने उत्तर में कहा कि अक्टूबर 1996 से नवम्बर 1997 तक शिकायतकर्ता ने उपरोक्त विभाग (कार्यालय) में कार्यरत रहा है और 1 वर्ष कि अवधि के भीतर शिकायतकर्ता ने नौकरी छोड़ दी, और अब 26 वर्ष के बाद वह अपने पुत्र के लिए अनुकंपा के आधार पर नौकरी कि मांग कि है जो कि विभाग द्वारा देय नहीं है।

4.2 प्रतिवादी के उत्तर से कोर्ट संतुष्ट है और प्रतिवादी द्वारा प्रस्तुत उत्तर से यह सिद्ध होता है कि प्रतिवादी द्वारा किसी प्रकार के नियम का उल्लंघन नहीं किया गया है। अतः इस प्रकरण में आगे किसी कार्यवाही की आवश्यकता नहीं है।

4.2 तदुसार, इस वाद का निपटारा किया जाता है।

(राजेश अग्रवाल)  
मुख्य आयुक्त दिव्यांगजन



## न्यायालय मुख्य आयुक्त दिव्यांगजन

**COURT OF CHIEF COMMISSIONER FOR PERSONS WITH DISABILITIES (DIVYANGJAN)**  
 दिव्यांगजन सशक्तिकरण विभाग/Department of Empowerment of Persons with Disabilities (Divyangjan)  
 सामाजिक न्याय और अधिकारिता मंत्रालय/Ministry of Social Justice & Empowerment  
 भारत सरकार/Government of India

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 5<sup>th</sup> Floor, N.I.S.D. Bhawan, G-2, Sector-10, New Delhi-110075; Tel.: (011) 20892364  
 Email: ccpd@nic.in; Website: www.ccdisabilities.nic.in

### Case No.13811/1023/2023

#### Complainant:

Shri Sunny Kumar  
 JTO (NGN) Nadiad  
 Qtr No. C/2, BSNL Staff Quarter,  
 Vallabhnagar, Pij Road, Nadiad- 387002  
 Mobile: 9409309579  
 Email: sunnybit.li@gmail.com

#### Respondent:

The Chairman  
 Bharat Sanchar Nigam Ltd. (BSNL)  
 Govt. of India Enterprises  
 Bharat Sanchar Nigam  
 HC Mathur Lane, Janpath  
 New Delhi- 110001  
 Contact: 011-23765181  
 Email: scticcbsnl@gmail.com

### 1. Gist of the Complaint:

1.1 Shri Sunny Kumar, a person with 85% locomotor disability filed a complaint dated 19.01.2023 and submitted that he is working as JTO (NGN) Nadiad posted at BSNL, Telephone Exchange building, Pij Road, Nadiad and the conditions of colony road in said premise is inaccessible for persons with disabilities. He is facing lots of difficulties. The administration has completely failed to provide appropriate barrier free environment to PwDs. Administration is continuously harassing, suppressing and exploiting him. The authorities of BSNL Nadiad administration having biased and prejudiced mind against him and so harassing and exploiting him in other ways and doing modification in the transfer order for causing discrimination to him. On dated 24.11.2022, the administration had issued order in which it is stated that the charge of JTO Nadiad is made over to Smt. Josfinaben Mechwan, JTO, NGN Nadiad in addition to her own duties without

any extra remuneration. The Nadiad administration started working with mala fide intentions to remove VTM charges from Smt Josfinaben Mechwan, JTO as well as targeted and harassed him. The authorities demanded a huge amount of Rs 50,000/- in bribery from him. He was threatened that if he did not pay the said bribe, the authorities of Nadiad administration will send proposals to O/o The PGM Ahmedabad for giving him VTM charges which was given to Smt Josfinaben Mechwan JTO as per O/o PGM ATD letter dated 24.11.2022.

1.2 He submitted that he is not able to pay the huge amount of bribe demanded by the administration. The Nadiad administration started working to modify the order to provide relaxation to Smt. Josfinaben Mechwan, JTO and to cause him more harassment. The management is deliberately and intentionally not providing him sufficient number of staffs for his assistance for discharging his duties efficiently. There was only one staff i.e. Shri Jigar S. Patel posted under his jurisdiction. Unfortunately, his staff Shri Jigar S. Patel JE was also transferred and posted under AGM Nadiad as per letter dated 09.11.2021. He requested his Controlling Authority and Administration to provide him staffs for his assistance. Nadiad SSA is having excess staffs and there was no need to remove his JE. In Nadiad administration section and other sections, there are lots of staffs posted for their conveniences while his grievances for providing him sufficient staffs as per guidelines are being kept pending deliberately and intentionally because his failure to pay the bribe. His previous Controlling Authority i.e. Shri M.H. Pathan had also discriminated with him and had given him low APAR for the period 01.11.2020 to 31.03.2021.

## **2. Submissions made by the Respondent:**

2.1 Assistant General Manger, Bharat Sanchar Nigam Limited filed their reply dated 21.04.2023 and submitted that the Complainant, Shri Sunny Kumar had joined BSNL Nadiad in the year 2013 and continued to be at the same station and same building. All these years he was never transferred out of Nadiad considering his disability. He has made wild allegations to the National Commission for Scheduled Caste. He has threatened that he would commit suicide. He has also alleged that his controlling officer has threatened him that his life would be in danger. On the basis of his complaint, department appointed a Committee of 3 senior officers, out of which two officers belonged to Scheduled Caste, to look into the allegations made by the Complainant. This Committee afforded all the opportunities to the Complainant to present his case and after hearing all the parties, the Committee unanimously came to the conclusion that no unfair treatment was given to the Complainant.

2.2 In 2019, the BSNL had introduced a voluntary retirement scheme and as a result, large number of existing employees had left the organisation causing severe staff shortage. Due to the financial difficulties, BSNL is not in a position to engage new employees. Therefore, as per the requirements employees are transferred. In some months, BSNL was not able to make the regular salary to its

I/1625/2023

employees. Due to this reason, BSNL is not in a position to go for any further expansion or construction activities.

2.3 The Respondent submitted that the complainant has alleged that the authorities had demanded a huge amount of money, Rs. 50,000 from him. He does not disclose name of the said officer who had demanded money from him. Secondly, he does not say why he has to pay this amount to the authority.

2.4 Due to certain administrative reasons, Kum. Josfinaben Mackwan JTO was transferred to another unit in Nadiad and the said charge was given to the Complainant. The Complainant being a senior group B Officer of the department should know these aspects. Complainant cannot demand supporting staff according to his desire. Department has to manage the staff as per the availability and their necessity.

2.5 All these years, department protected the complainant from transfer considering his disability. He is in the habit of making false and frivolous allegations against his superior officers including the controlling officers. He has made allegations even against the officers who have left Nadiad. He has not joined at the transferred place. He has not challenged his transfer before any competent forum. Due to his action which is illegal, department is conducting disciplinary proceeding for his insubordination and misconduct of threatening with suicide as well as making false allegation of demand of bribe.

### **3. Submissions made in Rejoinder:**

3.1 Shri Sunny Kumar filed rejoinder dated 23.06.2023 and reiterated his complaint and inter-alia submitted that there are huge unauthorised deductions from his salary of April 2023 and May 2023. He is facing financial problems due to non payment of salary. He has been declared dies-non for period 10.02.2023 to 02/04/2023 (52 days). During his dies-non period 10/02/2023 to 02/04/2023, he was present in BSNL online attendance system by marking his attendance as IN and OUT and he was also physically present in his office. It is thus, reflected that the deductions from his salary for the month of April 2023 and May 2023 is illegal. He submitted that the authorities are having biased and prejudiced mind against him for causing him extreme harassment, exploitation, discrimination and suppression through illegal deductions of his salary of two months.

3.2 He submitted that he was repaying SBI Home Loan of Rs 40 Lakh with EMI of Rs. 28,500/- per month and EMI of Rs.12500/- of loan of BSNL Nadiad Credit Cooperative Society.. He was harassed deliberately and intentionally by the higher authorities of administration through illegal/unauthorized deduction of Rs. 12,035/- from his salary for the period 01.08.2015 to 31.08.2015. When he asked through RTI, the reason of deduction, the management replied that 'it was clerical mistake'. Also, the management had deliberately deducted Rs 10,796/- for the period 01.05.2016 to 31.05.2016 and also reduced his basic pay.

3.3 He submitted that the BSNL administration Ahmedabad had cancelled his three approved CL (Casual Leave). During his submission of online APAR of period 01.04.2022 to 31.03.2023, 45 days period of absence is reflecting in his APAR due to dies-non period of 10.02.2023 to 02.04.2023. He submitted that his transfer orders are issued for targeting him only and so causing him more harassment, suppression and discrimination.

3.4 He submitted that the lifts got scrapped and dismantled in year 2018. Unfortunately, more than five years have passed and administration completely failed to install new lift. He had not complained in writing for using staircases to go on first floor/second floor. He use staircases and then he use lift to go on second floor for meeting. Finally, the administration transferred him in CSC/VTM/Commercial Office within Nadiad. The CSC Nadiad is purely customer dealing and he did not know Gujarati language. He is completely unable to communicate with BSNL Customer.

**4. Hearing:** The case was heard via Video Conferencing by Chief Commissioner for Persons with Disabilities on 22.09.2023. The following were present:

Sh. Sunny Nadiad : **Complainant**

Sh. Anil Bani, PGM, BSNL : **Respondent**

4.2 At the outset of the hearing, the Court asked the Complainant that he has made allegations of bribe and about discrimination on the ground of being from SC community. But, this Court does not have jurisdiction or mandate to inquire into such complaint. If the Complainant has any grievance about deprivation of any right extended to persons with disabilities or any discrimination on account of disability, then he should restrict his complaint to those issues only.

4.3 The Complainant submitted that the Respondent has not complied with the orders of the CCPD issued in his case on 30.10.2017. They have also been violating the DoPT instructions of 2014 with regard to transfer and posting of employees with disabilities. He was transferred in December, 2022 in violation of these instructions. He was relieved from his current post on 09<sup>th</sup> February, 2023 and the relieving order was sent to his home, which he did not receive. Thereafter, his pay was stopped and order for declaring 52 days' dies non has been issued.

4.4 The Court sought to know whether he was posted to another city or to another building in the same city. The Complainant answered that he was transferred to another section in the same building. At this point the Respondent also submitted that since the beginning of his career in 2013, the complainant has been retained at the same office with some changes in the assignments. His transfer is actually from a section on the first floor to another on the ground floor. He should actually be happy about this as his time and efforts to reach the first floor gets substantially reduced. He also submitted that the Complainant has been provided an accommodation also on the ground floor. The Court asked as to whether the DoPT instructions forbid transfer within the same city. The Complainant could not answer.

## 5. Observation and Recommendation

5.1 The Complainant had earlier filed a Complaint dated 15.10.2015 about inaccessible workplace. The said complaint was disposed of with an Order vide Case No. 5351/1101/2016 dated 30.10.2017 making recommendation to the BSNL, the Respondent in the said case as well as in the instant matter, for ensuring accessible and barrier free workplace by informing them of the provisions of Chapter 8 of the Act. The part of instant Complaint raising the issue of accessibility of the campus and the building, is therefore, res judicata and can not be entertain in the present complaint.

5.2 The Complainant has levelled serious allegations of corruption and discrimination but has failed to produce any evidence. He also stated that he has not raised the matter before the CVO of the Company. Such issues are to be dealt at an appropriate forum.

5.3 In so far as the complaint regarding his transfer, this Court has concluded that the instructions are enabling in nature and it does not in any way be interpreted to bar the administration to transfer employees from one section to another in the same building or in the same place of posting.

5.4 The Court is therefore of the view that this is not a case fit for intervention of this Court. However, the Respondent is directed to ensure that accessibility is provided at the workplace and within the premises of the Company.

5.5 The case is disposed of accordingly.

**(Rajesh Aggarwal)**  
Chief Commissioner for  
Persons with Disabilities



## न्यायालय मुख्य आयुक्त दिव्यांगजन

**COURT OF CHIEF COMMISSIONER FOR PERSONS WITH DISABILITIES (DIVYANGJAN)**  
 दिव्यांगजन सशक्तिकरण विभाग/Department of Empowerment of Persons with Disabilities (Divya ngjan)  
 सामाजिक न्याय और अधिकारिता मंत्रालय/Ministry of Social Justice & Empowerment  
 भारत सरकार/Government of India

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 Email: ccpd@nic.in; Website: www.ccdisabilities.nic.in

### Case No. 13982/1011/2023

In the matter of—

Shri Shibu S V  
 Charuvilaputhen Veedu,  
 Chakkuvarakkal PO  
 Kunnicode, Kollam,  
 Kerala 691508  
 Email: shibusv2017@gmail.com  
 Contact: 7012639622

.... Complainant

### Versus

The Chairman,  
 ISRO Centralized Recruitment Board (ICRB),  
 Isro Headquarters,  
 Anturiksh Bhavan,  
 New Bell road, Bangalore 560094  
 Email: icrb@isro.gov.in

.... Respondent

### 1. Gist of Complaint:

1.1 Shri Shibu S V, a person with 50% Low Vision filed a complaint dated 09 & 10.03.2023 regarding denial of reservation to the persons with Low Vision in direct recruitment for the post of Account Officer (Group 'A', Post Code 2) advertised by ISRO vide No. ISRO:ICRB:01(Officer):2021 dated 01.04.2021.

1.2 The Complainant submitted that as per the advertisement, 01 post was reserved for persons with Low Vision category under the differently abled category for the captioned post Account Officer. Three candidates with Low Vision including him, appeared in the computer based written test held on 03<sup>rd</sup> April, 2022. He alleged that no candidate with low vision was called for interview conducted on 16<sup>th</sup> and 17<sup>th</sup> April, 2022 at Bengaluru. He submitted that if the candidates with low vision did not secure the minimum marks required to pass the competitive exam, the cut off marks must be lowered to accommodate the reserved candidates.

### 2. Submissions made by the Respondent:

2.1 Shri KV Vandhana, Senior Administrative Officer, ISRO filed reply on affidavit dated 23.05.2023 on behalf of the Respondent and inter-alia submitted that as per the advertisement 04 posts of Account Officer were advertised out of which 01 post was reserved for Persons with



Benchmark Disabilities with low vision. The selection process consisted of Written Test of Objective type — Part A, B & C and Descriptive type— Part D questions; and Interview. The candidates had to secure a minimum of 40% marks in each part of the objective type test and also had to secure a minimum aggregate of 50% marks. Additionally, the candidates had to secure a minimum of 50% marks in the descriptive type test. In case, sufficient number of OBC/ST/PwD candidates were not available for consideration for filling up of the reserved vacancies, then relaxation in standards of selection would be extended to such candidates as per the norms prevailing in the Department. However, there would be no relaxation in the qualification norms as notified. 03 candidates with Blind/Low vision category (including the Complainant) appeared in the Written Test. No candidate belonging to Blind/Low Vision category got qualified in the written test under general standards. The marks secured by them are as under:-

Sl. No.	Name	Part-A (out of 36)	Part-B (out of 32)	Part-C (out of 36)	Total (out of 104)	Part-D (out of 20)	Grand Total (out of 124)
1.	S Maruthi Srikanth	23.5	20.75	13.25	57.5	2	59.50
2.	Praveena G	4.5	6.25	11.25	22	7	29.00
3.	Shibu S V	3	2.75	-3.75	2	3.5	5.50

2.2 As per the prevailing practice in the Respondent's Department, relaxation to the extent of 25% less than the general standards was provided in the written test marks. The following are the relaxed standards—

Particulars	Part-A (out of 36)	Part-B (out of 32)	Part-C (out of 36)	Total (A+B+C) (out of 104)	Part-D (out of 20)	Grand Total (out of 124)
General qualifying standards	14.4 (40% out of 36)	12.8 (40% out of 32)	14.4 (40% of 36)	52 (50% of 104)	10 (50% OF 20)	62 (50% OF 124)
Relaxed standards	10.8 (30% of 36)	9.6 (30% of 32)	10.8 (30% of 36)	39 (37.5% of 104)	7.5 (37.5% of 20)	46.5 (37.5% of 124)

2.3 Even after allowing 25% relaxation with reference to general standards, none of the candidate belonging to Blind/Low Vision category met the relaxed standards. The Complainant got 3.75 negative marks in the respective area i.e. Part-C. Hence, no candidate belonging to Blind/Low Vision category was shortlisted for personal interview.

### 3. Submissions made in Rejoinder:

The Complainant filed his rejoinder dated 01.06.2023 and inter-alia submitted that ISRO has not lowered the marks sufficiently to accommodate the candidates with low vision. The relaxed standard must be sufficient to give appointment to the candidates with disabilities for the post reserved for them. The cut off marks had not been lowered for the written examination for persons with disabilities.

**4. Hearing:** The case was heard via Video Conferencing by Chief Commissioner for Persons with Disabilities on **04.09.2023**. The following were present:

**Complainant :** Shri Shibu S V

**Respondent :** Shri Ravi Kumar (Admn. Officer) and Shri Ankiya

### 5. Record of Proceedings:

5.1 At the outset, the Court sought the version of the Respondent, who confirmed that as per the ISRO policy mentioned clearly in their advertisement they are providing a relaxation of 25% to the candidates with disabilities vis-a-vis the cut off of 40% for candidates from General category. In other words, PwD candidates with 30% or more marks were considered eligible in respect of the reserved category. However, the Complainant did not achieve a score of 30% in any part of the examination and he had negative marks in the paper on Accounts. As such, he did not meet the minimum criteria and was not shortlisted.

5.2 The Complainant stated that the Respondent has failed to comply with the policy of the Central Government in this regard and quoted from the DoPT OM No. 36035/02/2017-Estt(Res) dated 27.09.2022, which at para 4 sub para (i) states as under:

*"The reserved vacancies will be filled up separately from amongst the eligible candidates with benchmark disabilities, who are lower in merit than the last unreserved candidate in general merit list, but otherwise found suitable for appointment, if necessary, by relaxed standards."*

5.3 In response to the query of the Court as to how in the instant case, the action of the Respondent is violative of the government instruction relied upon by the Complainant, the Complainant submitted that there is reservation for persons with disabilities and the instructions do not make any mention of 25% relaxation. The determination of 25% relaxation is an arbitrary decision. The Complainant further submitted that the Respondent should have relaxed the standard to a level where the reserved vacancies could be filled. The ISRO has misinterpreted this suitability criterion in a manner different from the policy on the subject.

## **6. Observations /Recommendations:**

6.1 Upon consideration of the facts of the present Complaint, the written and oral submissions of the parties, it is evident that the respondent establishment has provided relaxation in minimum standards. While the minimum qualifying marks for general category candidates were set at 40%, the minimum standard marks for the Persons with Disabilities (PwD) category were established at 30%. The Respondent submitted that the Complainant did not qualify on the relax standards and he actually got negative marks in one of the papers, which was not denied by the Complainant.

6.2 The contention of the Complainant that the relaxation should be allowed to such extent so as to enable filling of all reserved vacancies, can not be accepted. The purpose of relaxation is to ensure level playing field and not to fill the vacancy with indefinite extent of relaxation without consideration of its impact on the efficiency of the administration. The DoPT instruction quoted by the Complainant also makes it clear that the relaxation is to be given, if necessary, if a candidate is otherwise found suitable for appointment.

6.3 In view of the above, this Court concludes that the Complainant has not proved a case of discrimination based on disability. As such, intervention of this Court is not warranted in the matter.

I/1709/2023

6.4 Accordingly, the case is disposed of.

**Signed by Rajesh Aggarwal**

**Date: 18-10-2023 21:31:04**

**Reason: Approved**

**(Rajesh Aggarwal)**

Chief Commissioner for  
Persons with Disabilities

□

**न्यायालय मुख्य आयुक्त दिव्यांगजन**  
**COURT OF CHIEF COMMISSIONER FOR PERSONS WITH DISABILITIES (DIVYANGJAN)**  
दिव्यांगजन सशक्तिकरण विभाग/Department of Empowerment of Persons with Disabilities (Divya ngjan)  
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5<sup>th</sup> Floor, N.I.S.D. Bhawan, G-2, Sector-10, Dwarka, New Delhi-110075; Tel.: (011) 20892364  
Email: ccpd@nic.in; Website: www.ccdisabilities.nic.in

**Case No. 14338/1031/2023**

**Complainant:**

Anushka Priyadarshini  
H No – 68, River Valley, Gate Number – 3,  
Kamaluwa Ganja Gaur, Haldwani,  
Nainital – 263139  
Email – anushka0priyadarshini@gmail.com

**Respondent:**

The Commissioner  
Navodaya Vidyalaya Samiti  
B-15, Institutional Area, Block B,  
Industrial Area, Sector 62, Noida  
Uttar Pradesh 201307  
Email - commissioner.nvs@gov.in

**Affected Person:** Anushka Priyadarshini, a person with 48% intellectual disability

**1. Gist of the Complaint:**

1.1 Anushka Priyadarshini, a person with 48% intellectual disability has filed a complaint dated 11.07.2023 and submitted that the Navodaya Vidyalaya Samiti (NVS) in its prospectus for admission to Class VI in JNVs for the session 2024-25 (English) has mentioned candidates with only three categories of disability as the ones eligible for admission. Children with blood disorders have been banned explicitly from admission in any NVS across the country.

1.2 The Complainant has further submitted that certain offensive words such as 'handicapped', which come under 'Language to be avoided' as per the United Nations Office at Geneva, has been used in the online application for selection to Class-XI (2023-24) through lateral entry selection test in Jawahar Navodaya Vidyalaya. She has also requested for total implementation of the National Education Policy (NEP), 2020 in NVS.,

**2. Submissions made by the Respondent:**

2.1 Dr. Ajay Kumar, Assistant Commissioner filed reply dated 11.08.2023 on behalf of the Respondent and submitted *inter-alia* that the matter regarding reservation of three seats out of 80 for Divyang candidates was taken up with the ministry vide letter dated 20.10.1999, which had directed to consider admission of 3% candidates under divyang category. Accordingly, 3% reservation in introduced from JNVST 2001. In the action taken report of XIX Executive Committee Meeting of NVS, it is mentioned that the reservation would be introduced onwards through JNVST 2001. Accordingly, by looking into co-education residential nature of JNVs, one seat each is reserved for Hearing Impaired, Visual Impaired and Physically Ability. By considering the residential nature of JNVs, candidates with other categories of disabilities

are not considered.

2.2 With regard to respectful language in the registration portal, status of divyang students will be captured using respectful terminology in future.

2.3 With regard to implementing New Education Policy, 2020, It is submitted that the NVS is following the guidelines under the NEP, 2020, including age criteria for admission.

### **3. Submissions made in Rejoinder:**

3.1 The Complainant in her rejoinder dated 12.08.2023 submitted inter-alia that the RPwD Act, 2016 does not provide for any discretion to individual government establishment to exclude any category of children with disability from the admission to JNVs or any other schools/autonomous institutions.

### **4. Record of Proceedings:**

4.1 The case was heard via Video Conferencing by the Chief Commissioner for Persons with Disabilities on **22.09.2023**. The following persons were present during the hearing:

**Complainant : Ms. Anushka Priyadarshini**

**Respondent : Sh. G Arumugam, Joint Commissioner, NVS**

4.1 The Respondent submitted that theirs is a residential institution with a total of 650 schools in the country and that 90% of their intake comprises children from rural areas. The education is provided completely free of cost. The students have to take care of themselves. Self-reliance is emphasized, and the learning of life skills is encouraged. Children with disabilities are accommodated on the campus, with facilities like ramps and special washrooms provided for them. For students with disabilities, para sports competitions are also conducted.

4.2 The respondent further submitted that as per the RPwD Act, 2016, 5% reservation is available in higher education, whereas at JNV, it is school and play education. Currently, 3 out of 80 students every year benefit from this reservation, which equals to almost 4%. We provide inclusive education to children with disabilities and also offer assistive devices free of cost, such as textbooks, stationery, and daily-use items.

4.3 The Court sought the response of the Respondent on the issue of use of derogatory terms such as 'handicapped' and 'Viklang', on their website, brochure and portal of the respondent establishment. The Respondent informed the court that on receipt of the Notice in this case, they have already corrected their website and brochure accordingly.

4.4 The Complainant submitted that the policy followed by the Respondent is very old and, issued before the notification of the RPwD Act. Therefore, it does not cover all the new types of disabilities included in the RPwD Act of 2016.

4.5 The Complainant could not respond to the query of this Court regarding how a reservation of 3% or 4% in school admissions violates the Act or any other law when reservation has only been extended in higher education. The Complainant however, submitted that it is not only a matter of reservation but also of the right to admission to the children other disabilities.

### **5. Observation & Recommendation:**

5.1 As the Respondent has already taken necessary action regarding the use of offensive/derogatory terms, the following two issues are required to be determined by this Court:

- (i) Whether the reservation of 3 seats out of the total 80 in a batch is legally

tenable.

(iii) Whether the Respondent justified in not extending the scope and applicability of their admission and reservation policy to all the specified 21 categories of disabilities.

5.2 In so far as the quantum of reservation for children with disabilities in school education is concerned, this Court recognizes that there is no violation of this Act in not providing a 5% reservation in their admission as the same has only been extended in admissions to higher education. However, on the second issue of acceptance of student with any of the specified disability for admission by the NVS, attention of the Respondent is brought to the constitutional mandate as enshrined in Article 21-A of the Indian Constitution, The said Article 21-A is quoted as under:

*Article 21-A: "The State shall provide free and compulsory education to all children of the age of six to fourteen years in such manner as the State may, by law, determine."*

5.3 It can be seen from above, that the fundamental right to education has been extended to all children of the age of six to fourteen years. In so far as children with disabilities are concerned, Section 31 of the RPwD Act makes the following provision:

**"31. Free education for children with benchmark disabilities.—**

*(1) Notwithstanding anything contained in the Rights of Children to Free and Compulsory Education Act, 2009 (35 of 2009), every child with benchmark disability between the age of six to eighteen years shall have the right to free education in a neighbourhood school, or in a special school, of his choice.*

*(2) The appropriate Government and local authorities shall ensure that every child with benchmark disability has access to free education in an appropriate environment till he attains the age of eighteen years."*

5.4 Attention of the Respondent is also drawn in this regard to Section 4 of the Act, which is reproduced as under:

**"4. Women and children with disabilities.—**

*(1) The appropriate Government and the local authorities shall take measures to ensure that the women and children with disabilities enjoy their rights equally with others.*

*(2) The appropriate Government and local authorities shall ensure that all children with disabilities shall have right on an equal basis to freely express their views on all matters affecting them and provide them appropriate support keeping in view their age and disability."*

5.5 Thus, this Court is of the view that there can not be any discrimination in the matter of admission to school education on the ground of disabilities and there is little ground to deny the children with the newly added categories of disabilities their right to education. Accessibility of education at a nearby school is a more pressing need for a child with disability than for any other category of children.

5.6 This Court therefore, directs that necessary action to include all category of specified disabilities as eligible to compete for admission as both reserved and on own merit candidate shall be taken without any further delay and, positively, before the next admission process commences. If the NVS is of the view that a certain disability might prevent the student from staying independently in a residential school, they should take this decision in a transparent manner and have a proper written justification for this, before the next round of admissions is

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announced..

5.8 This Case is disposed of accordingly.

**Signed by Rajesh Aggarwal**

**Date: 25-10-2023 15:05:28**

**Reason: Approved**

**(Rajesh Aggarwal)**

Chief Commissioner for  
Persons with Disabilities



## न्यायालय मुख्य आयुक्त दिव्यांगजन

**COURT OF CHIEF COMMISSIONER FOR PERSONS WITH DISABILITIES (DIVYANGJAN)**

दिव्यांगजन सशक्तिकरण विभाग/Department of Empowerment of Persons with Disabilities (Divya ngjan)

सामाजिक न्याय और अधिकारिता मंत्रालय/Ministry of Social Justice & Empowerment

भारत सरकार/Government of India

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**Case No. 13534/1011/2022**

### Complainant:

Shri Kailash Kumar,  
Radiology Department,  
Neigrihms Hospital,  
Shillong-793018 Meghalaya;  
Email: k.lakhara2011@gmail.com

### Respondent:

1. The Director,  
All India Institute of Medical Sciences,  
Ansari Nagar,  
New Delhi-110029;  
Email: director@aiims.ac.in
2. The Secretary,  
Department of Personnel & Training,  
Ministry of Personnel, Public Grievances and Pensions,  
North Block, New Delhi - 110001.  
E-Mail: secy\_mop@nic.in

**Affected Person: The complainant, a person with 74% Hearing Impairment**

### 1. Gist of Complaint:

Shri Kailash Kumar filed a complaint dated 06.08.2022 against the respondent regarding denial of reservation for person with hearing impairment to the post of Principal in the AIIMS School of Nursing whereas the post of Principal is identified for persons with hearing impairment.

### 2. Submissions made by the Respondent:

2.1 The Respondent No. 1 filed its reply dated 23.12.2022 and submitted that AIIMS New Delhi has only 01 post of Professor-cum-Principal sanctioned for College of Nursing. As per DoPT Guidelines, reservation is not applicable in single post cadre.



Accordingly, 01 vacant post of Professor-cum-Principal, College of Nursing in AIIMS, New Delhi was advertised in the year 2019 as UR.

2.2 The Respondent No. 2 filed its reply dated 05.07.2023 and submitted inter alia that they have consulted the Department of Legal Affairs in this regard, who have referred to the 5 Judges Constitution Bench Judgement, dated 17.04.1998, of the Hon'ble Supreme Court in the matter of PGIMER. Chandigarh Vs. Faculty Association Ors in which the Hon'ble Supreme Court, inter alia, held that until there is plurality of posts in a cadre, the question of reservation will not arise because any attempt of reservation by whatever means and even with the rotation of roster in a single post cadre is bound to create 100% reservation of such post whenever such reservation is to be implemented. DoLA has stated that the ratio of the judgement, dated 17.04.1998, of the 5 Judges Constitution Bench in the matter of PGIMER, Chandigarh vs. Faculty Association and Ors, appears to be that there cannot be any reservation in a single post cadre.

2.3 Drawing analogy from the ratio of the above-mentioned judgement of the Hon'ble Apex Court, dated 17.04.1998, DoLA has opined that although reservation for PwD is a horizontal reservation, the law laid down by the Hon'ble Supreme Court in PGIMER, Chandigarh, case may get violated if reservation in single post cadre is applied even if it is a horizontal reservation.

2.4 The Respondent No. 2 further submitted that in view of the comments received from Department of Legal Affairs, it can be concluded that reservation for PwBDs in a single cadre post cannot be provided.

2.5 The Respondent also submitted that according to Para 4 of DoPT OM No. 36035/2/2017-Estt. (Res), dated 15.01.2018, however, if a single post cadre is identified for the PwBDs, such a candidate cannot be denied the right to compete for appointment by direct recruitment against an unreserved vacancy. Similarly, there is a provision of adjustment of PwBD candidate who are in the zone of consideration against general vacancy, as per Para 7 of DoPT OM No. 36012/1/2020-Estt (Res-II), dated 17.05.2022.

### **3. Submissions made in Rejoinder:**

3.1 The Complainant filed his rejoinder dated 19.02.2023 and inter-alia submitted that the reference of DoPT OM given by AIIMS cannot supersede the provisions of RPWD Act, 2016 and Rules thereunder. He further submitted that the only post of Principal – Nursing College is identified for persons with hearing impairment; and he has done course in nursing, so he is eligible for the post. If he does not get reservation for that post, his doing of the nursing course would be futile.

**4. Hearing:** The case was heard via Video Conferencing by Chief Commissioner for Persons with Disabilities on **22.09.2023**. The following were present:

(i) None appeared for the Complainant

(ii) Ms. Jyoti Kapoor: Assistant Administrative officer faculty Cell– AIIMS

### **5. Observations /Recommendations:**

5.1 During the online hearing, the Respondent informed that there is a single post of Principal of the nursing college, and there is no reservation in the above-mentioned

post. As reservation for persons with benchmark disability is not post based, rather it is group-wise vacancy based, a doubt arose whether the exemption of single post cadre from reservation will apply also in the case of PwBD reservation. Accordingly, comments of the DoPT was sought vide this Court's Notice dated 11.04.2023. The DoPT in its reply dated 05.07.2023 clarified that there is no violation. The post of Principal, which is the single-post cadre, does not have reservations for SC, ST, OBC, or PwD candidates.

5.2 In view of the submission of Respondent No. 2, who are the nodal department of the central government on personnel matter and who preferred their submission after seeking opinion of the Ministry of Law, this Court is inclined to conclude that this is not a case of deprivation of any rights of a person with disabilities or of any discrimination on the ground of disabilities. As such any further intervention of this Court is not warranted in the matter.

5.3 Accordingly, the case is disposed of.

**Signed by Rajesh Aggarwal**

**Date: 25-10-2023 14:46:58**

**Reason: Approved**

**(Rajesh Aggarwal)**

Chief Commissioner for  
Persons with Disabilities



**न्यायालय मुख्य आयुक्त दिव्यांगजन**  
**COURT OF CHIEF COMMISSIONER FOR PERSONS WITH DISABILITIES (DIVYANGJAN)**  
 दिव्यांगजन सशक्तिकरण विभाग/Department of Empowerment of Persons with Disabilities (Divyangjan)  
 सामाजिक न्याय और अधिकारिता मंत्रालय/Ministry of Social Justice & Empowerment  
 भारत सरकार/Government of India  
 5वाँ तल, एन.आई.एस.डी. भवन, जी-2, सेक्टर-10, द्वारका, नई दिल्ली-110075; दूरभाष : (011) 20892364  
 5<sup>th</sup> Floor, N.I.S.D. Bhawan, G-2, Sector-10, New Delhi-110075; Tel.: (011) 20892364  
 Email: ccpd@nic.in; Website: www.ccdisabilities.nic.in

**Case No. 14129/1022/2023**

**Complainant:**

Shri Ayush  
 R/o G-638, G Block, Govindpuram  
 Ghaziabad, U.P. - 201013  
 Mobile No - 8800022029  
 Email - ayush.verma9@yahoo.com

**Respondent:**

The Chairman,  
 Central Board of Indirect Tax (CBIT)  
 Ground Floor, Hudco Vishala Building  
 Bhikaji Cama Place  
 R. K. Puram, New Delhi-110066  
 Email - mohammad.ashif@nic.in

**Affected Person:** The Complainant, a person with 45% locomotor disability

**1. Gist of Complaint:**

1.1 Shri Ayush, a person with 45% locomotor disability has filed a complaint dated 22.05.2023 and submitted that he was selected for the post of Central Excise Inspector, CBIT, by clearing SSC, CGLE-2022 Examination under the category of Orthopedically Handicapped.

1.2 He prayed for allocation of the region as per his preference near to his native place for the post of Central Excise Inspector, CBIT. However, he has been allocated Mumbai CGST vide final Zonal Allocation Order dated 08.08.2023.

**2. Submissions made by the Respondent:**

2.1 On behalf of the Respondent, the Under Secretary (Ad.IIIB), CBIC filed reply dated 07.07.2023 and submitted inter alia that during zonal allocation, DoPT's instructions issued vide OM dated 13.03.2002 are strictly followed. Zonal allocation to PwBDs are always done on Merit-Cum Preference basis, giving overriding priority to PwBDs, as per extant rules and availability of category wise vacancies in

the Cadre Controlling Authority.

2.2 Zonal allocation among 16 zones for the candidates recommended by SSC through Combine Graduate Level Examination 2022 in Central Board of Indirect Tax and Customs is under process currently. All the priority/privilege, as admissible to physically handicapped candidates as per DoPT guidelines/instructions would be extended to all PH candidates uniformly, including the complainant, when zonal allocation is done.

### 3. Submissions made in Rejoinder:

3.1 The Complainant file his rejoinder dated 07.08.2023 reiterated his complaint and submitted that his native place is under the zones of Delhi CGST, Lucknow CGSL and Chandigarh CGST. He has been allocated Mumbai CGST vide final zonal allocation order list dated 08.08.2023.

4. **Hearing:** The case was heard via Video Conferencing by Chief Commissioner for Persons with Disabilities on 22.09.2023. The following were present in the hearing:

- Shri Aayush – **Complainant**
- Shri Ranjan Kumar Jha, Director, CBIC – **Respondent**

### 5. Record of Proceedings:

5.1 At the outset of the hearing, the Complainant submitted that he is currently working as an Inspector in Income Tax at Mangalore, Karnataka after he got selected through SSC, CGL-2018. He wanted to get a posting near his native place. But, the Income Tax Department has issued a new policy in 2020 whereby a ban has been ordered for inter-zone posting/transfers. So just in order to get a posting near his hometown, he appeared in the SSC, CGLE Examination -2022. After successfully qualifying the examination and being selected for the post of Central Excise Inspector (GST Inspector) under the Central Board of Indirect Taxes and Customs, he filled his preference for posting in the following order :- 1.Delhi, 2.Lucknow, 3.Chandigarh, 4.Jaipur, 5.Bhopal and 6.Mumbai. He was allotted the Mumbai CGST vide final Zone Allocation Order dated 08.08.2023.

5.2 In response to the query of this Court as to how the CBIC decides the zone allocation, the Respondent submitted that the CBIC is divided into 25 zones and each zone is the cadre controlling authority in respect of Gp B (Non- gazetted) and Gp C officers. The Zone concerned is maintaining the reservation rosters at their end. The CBIC follows the DoPT instructions of 04th June 2010 on allocation of zones after recruitment and their own departmental SOP. According to the policy, the Respondent is making allocation of zones on the basis of merit and preference.

5.3 The Court sought details of vertical and horizontal reservations for all the preferences submitted by the Complainant. The Respondent submitted that none of the candidates with locomotor disability belonging to SC category was given posting at any of the first five preference submitted by the Complainant who scored less marks than the complainant was given. The total number of successful candidates were SC-OH was 15. Whereas the rank of the complainant in the same category is SC-OH was 27. The respondent further submitted the details as under:

<b>Category</b>	<b>Delhi</b>	<b>Lucknow</b>	<b>Chandigarh</b>
<b>UR</b>	02	14	-
<b>Ews</b>		03	
<b>OBC</b>	01	09	05
<b>SC</b>	01	05	01
<b>ST</b>	-	03	03
<b>OH</b>	-	01	-
<b>Total</b>	04	34	09

5.4 The Court asked the Complainant about the grounds of his grievance for getting posting at his preference number six, having not found in merit list of SC-OH in first five preferences, he was allotted 6th preference. The Complainant submitted that place of posting is on the basis of all India examination and the same should be considered on the ground of his disability.

## **6. Observation**

6.1 This Court has perused the written and oral submissions of the parties in the matter. Apparently, there is no discrimination in allocation of zone to the Complainant as either there were no vacancy in his preferred zones or the vacancies were filled by another candidate from the same category, who score more marks than the Complainant. However, following points having critical bearing on the case at hand, which were neither raised by the Complainant nor did they come up for discussion during the hearing on 22/09/2023, need to be examined by this Court:-

(a) The Respondent has repeatedly stated through their written submissions as well as during the hearing that their policy for zone allocation is strictly based on merit cum preference submitted by the candidates and that they are following a Standard Operating Procedure in this regard, which prescribes the following criteria:-

- i. The allocation of candidates to various Zones/Commissionerate- based cadres is made on 'merit-cum-preference' basis (i.e. candidates with higher merit/ rank in the merit list provided by the Staff Selection Commission- get better chances of getting cadres of their preference), subject to availability of vacancies of relevant category in the various cadres.

- ii. DOP&T instructions with reference to persons with disabilities contained in OM No. AB- 14017/41/90 Estt. (RR) dated 10.05.1990 and OM No. AB 14017/16/2002 Estt. (RR) dated 13.03.2002, is taken into consideration, and allocation of cadre starts with allocation of cadre (s) to PH Candidate(s). As per these guidelines, their request for transfer to, or near to, their native place is given in allocation of cadres. These candidates have been given overriding priority in allocations, consistent with their option/ residential addresses, as the case may be, in the spirit of DOPT's instructions according to vacancies reserved for them in respective Category/Cadre/Zones.
- iii. The DoP&T instructions contained in the Office Memorandum No. 36012/72/2009- Estt. (Res.) dated 4<sup>th</sup> June, 2010 is followed while allocating cadres to reserved category candidates, selected against General Category vacancies under 'own merit/ mechanism.

(b) The OMs dated 10/05/1990 and 13/03/2002 makes enabling provisions to post the PwD employees as far as possible and subject to administrative constraints, near their native place. It also provides that requests from PwD employees for transfer to or near their native place in the same manner. Except for a mention in the SOP, it is not clear how these instructions are actually being implemented by the Respondent, particularly when they have banned inter-zone or inter commissionerate transfers.

(c) The DOPT OM 2010 was necessitated due to a CAT (PB) Order dated 03.12.2009 in Case No. 3494/2009 Surender Singh Vs UOI and Ors. The said policy is totally based on merit-cum-preference with exceptions allowed in the case of SC, ST and OBC candidates. There is no mention of disability of an employee as a factor in the decision making. The Hon'ble CAT did not have the occasion to examine this matter in the light of the RPwD Act and the Rules thereunder as they did not exist then.

(d) All the instructions which are being relied upon as criteria by the respondents were issued prior to the issue and DoPT OM dated 31/03/2014 and notification of RPwD Act 2016 wherein Section 20 (5) mandates the appropriate government to frame policies for posting and transfer of employees with disabilities. Rule 8 of the RPwD Rules 2017, further, enjoins all establishments to publish their Equal Opportunity Policy for Persons with Disabilities, which shall *inter alia* contain preference in transfer and posting.

It is evident from the submission of the respondent, both written as well as oral, that no such policy as mandated by the Act or the rules has been framed by them.

(e) The statement of the Respondent that each Zone is the Cadre Controlling in itself and the reservation rosters/registers are being maintained at the Zonal level only. There appears to be a dichotomy in this statement also because if that was the case, then there should have been one vacancy each reserved for PwBD out of 4 in Delhi & 9 in Chandigarh and at least 2 out of 34 in the case of Lucknow Zone. The fact that the number of UR vacancy (Vertical) is Zero out of 34 in Lucknow Zone, as informed by the respondent, also is an impossibility considering that there is a ceiling of reservation at 50% barring the EWS reservation.

(f) Lastly, the Respondent has taken a position that there is a ban on inter-zone or inter-commissionerate transfer in their establishment since 2018. The said policy has emerged as an impediment in the implementation of Section 20 (5) of the Act and Rule 8 of the RPwD Rules.

## **7. Recommendation:**

7.1 In view of the foregoing, this Court recommends that the Respondent shall review their SOP as well as their ban orders to bring them in line with the statutory mandate as discussed above and also give a fresh look at the grievance of the Complainant with an open and positive mind.

7.2 The Respondent shall submit their Compliance/Action Taken Report within 3 months from the date of this Order in terms of Section 76 of the RPwD Act, 2016. Attention of the Respondent is brought to the provisions of Section 93 of the Act also, which makes non-furnishing of information sought under the provisions of this Act as a punishable offence.

7.3 The Case is disposed of accordingly.

**Signed by Rajesh Aggarwal**

**Date: 28-10-2023 21:01:50**

**Reason: Approved**

**(Rajesh Aggarwal)**

Chief Commissioner for  
Persons with Disabilities



सत्यमेव जयते

न्यायालय मुख्य आयुक्त दिव्यांगजन  
**COURT OF CHIEF COMMISSIONER FOR PERSONS WITH DISABILITIES  
 (DIVYANGJAN)**

दिव्यांगजन सशक्तिकरण विभाग/Department of Empowerment of Persons with Disabilities (Divyangjan)  
 सामाजिक न्याय और अधिकारिता मंत्रालय/Ministry of Social Justice & Empowerment  
 भारत सरकार/Government of India

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 5<sup>th</sup> Floor, N.I.S.D. Bhawan, G-2, Sector-10, New Delhi-110075; Tel.: (011) 20892364  
 Email: ccpd@nic.in; Website: www.ccdisabilities.nic.in

**Case No. 13590/1024/2023/172489**

**Complainant:**

Smt. Pushpta Devi Rajpurohit  
 Shri Shyam Singh Rajpurohit  
 Guru Om Kripa Bhawan,  
 21 Vaishali Nagar, Badgaon  
 Udaypur, Rajasthan - 31301  
 Email: ushpa.rajpurohit991@gmail.com

**Respondent:**

Secretary General  
 Joint Secretary, (Youth Affairs)  
 Nehru Yuva Kendra Sangathan  
 Ministry of Youth Affairs & Sports (GOI)  
 4- Jeevan Deep Building, Ground Floor,  
 Sansad Marg, New Delhi, Delhi- 110001  
 Phone No. 011-23442800  
 Email: cpionykshq@gmail.com

**1. Gist of Complaint:**

शिकायतकर्ता ने 60% चलन अक्षमता व्यक्ति, श्रीमती पुष्प देवी राजपुरोहित पत्नी श्री श्याम सिंह राजपुरोहित, दिनांक 29.11.2022 को अपनी शिकायत दर्ज की है।

1.2 शिकायतकर्ता ने कहा की उनके पति श्री श्याम राजपुरोहित नेहरू युवा केंद्र संगठन उदयपुर के निदेशक पद से नियमानुसार 31 जुलाई 2022 को सेवा काल पूर्ण होने पर और सेवा निवृत्ति के चार माह का समय व्यतीत होने पर भी उनके पति के रिटायरमेंट बनेफिट्स पीपीओ gratuity इत्यादि अभी तक प्राप्त नहीं हो पाए हैं। जबकि जुलाई 2022 में रिटायरमेंट हुए अन्य अधिकारियों को पेंशन की बकाया राशी जारी हो गयी है। वर्ष 2016 से पेंडिंग यात्रा भत्ता बिल जो प्रभारी राज्य निदेशक गांधीनगर गुजरात कार्यकाल के दौरान संगठन के निर्देशानुसार



एन आई आर डी ट्रेनिंग में भाग लेने के लिए हैदराबाद आने जाने का किराया यात्रा बिल लगभग 7000/- का भुगतान लगातार निवेदन करने पर भी 6 वर्ष से अभी तक नहीं मिल पाया |

1.3 शिकायतकर्ता ने कहा की 2018 में प्रभारी राज्य निदेशक जयपुर राजस्थान कार्यकाल के दौरान लगभग 45000/- के यात्रा भत्ता बिल का भुगतान भी नहीं हो पाया| इसी प्रकार वर्ष 2020 के दौरान कोरोना काल में परिक्षेत्र की आवश्यक विजिट के यात्रा भत्ता बिल की राशी लगभग 75000/- भी नहीं मिल पाई है|

## 2. Submissions made by the respondent:

Shri Ashok Kumar, DD-Pension, Nehru Yuva Kendra Sangathan, filed reply vide letter dated 28.03.2023 and stated that NYKS vide letter ref no NYKS/PC/2022-23/Payment/534 dated 25-1-2023 has made partial payment of the dues to Shri Shyam Rajpurohit and the final payment, if any, will be made at the earliest after receiving the verified LPC/pay fixation of the employee and after rectifying any anomaly in pay fixation /LPC.

## 3. Submissions made in Rejoinder

3.1 शिकायतकर्ता ने प्रत्युत्तर दिनांक 27.04.2023 दायर किया और कहा की उसके पति को संशोधित प्रोविस्नल पीपीओ क्रमांक S169 प्राप्त हुआ है जिस में पेंशन एवं सेवानिवृति अनुलाभो [Gratuity, commutation of pension, एवं लीव सैलरी] की गणना मिनिमम बेसिक वेतन [लेवल-13 Rs 1,23,100 -2,15,900] पे की गयी है जो की रूपए 1,23,100 है जबकि उनके पति की सेवानिवृति माह जुलाई 2022 के समय अंतिम बेसिक वेतन रूपए 138500 था|

3.2 शिकायतकर्ता ने कहा की लगभग 9 माह पूर्ण हो रहे है फिर भी अभी तक उनके पति को पूरी पेंशन राशी एवं पेंशन अनुलाभो का बकाया भुगतान अभी तक नहीं किया गया है| शिकायतकर्ता ने यह भी कहा है की उनके पति के मासिक पेंशन में से 3000 रूपए प्रतिमाह की दर से ईपीएफ की कटौती की जा रही है तथा ईपीएफ पेंशन राशी एवज में 72000/- +9000/=81000/- की कटौती अब तक की गयी है जबकि ईपीएफ विभाग द्वाराअलग से कोई पेंशन राशी नहीं दी जा रही है|

## 4. Observations & Recommendations:

4.1 Issue raised by the Complainant in her original complaint was related to payment of retirement benefits. The Respondent submitted in its reply that the same have been paid. This fact has also been accepted by the Complainant in her Rejoinder. However, the Complainant raised a new issue in her rejoinder which is related to miscalculation of basic pay by the Respondent at the time of computation of retirement

benefits.

4.2 The issue of mis-calculation of basic pay being a new issue which was not raised in the original Complaint and also because the same does not involve any discrimination on the ground of disability, this Court is not inclined to issue any direction on the merit of this issue. However, considering the case sympathetically, this Court recommends that the Respondent shall review the calculation of retirement benefits and if needed, he shall conduct a personal meeting with the Complainant and the employee in order to explain the method and guidelines for computing the retirement benefits as done in the instant case.

4.3 The case is disposed of accordingly.

**Signed by Rajesh Aggarwal**

**Date: 17-10-2023 18:02:25**

**Reason: Approved**

**(Rajesh Aggarwal)**

Chief Commissioner for  
Persons with Disabilities



न्यायालय मुख्य आयुक्त दिव्यांगजन

**COURT OF CHIEF COMMISSIONER FOR PERSONS WITH DISABILITIES (DIVYANGJAN)**  
 दिव्यांगजन सशक्तिकरण विभाग/ Department of Empowerment of Persons with Disabilities (Divyangjan)  
 सामाजिक न्याय और अधिकारिता मंत्रालय/ Ministry of Social Justice & Empowerment  
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 5<sup>th</sup> Floor, N.I.S.D. Bhawan, G-2, Sector-10, Dwarka, New Delhi-110075; Tel.: (011) 20892364  
 Email: ccpd@nic.in; Website: www.ccdisabilities.nic.in

**Case No: 13950/1022/2022**

**Complainant:**

Sh. Anil Meel, Primary Teacher  
 S/o Shri Shishir Meel  
 Vill. Kakdoli Hatti  
 Post. Kakdoli Sardara,  
 Distt. Biwani, Haryana – 127308  
 Mobile No. 8684981300  
 Email ID: anil.meel96@gmail.com

**Respondent:**

- (1) The Commissioner  
 Kendriya Vidyalaya Sangathan  
 18, Institutional Area  
 Shaheed Jeet Singh Marg  
 New Delhi - 110016  
 Phone No - 91-11-26858570  
 Email ID - commissioner-kvs@gov.in
- (2) Regional Director  
 Kendriya Vidyalaya Sangathan  
 Regional Office  
 Silchar, Assam - 788001

**1. Gist of the Complaint:**

1.1 Shri Anil Meel, a person with 80% locomotor disability, filed a complaint dated 15.03.2023 while working as a teacher in Kendriya Vidyalaya Sangathan, Agartala. The Complainant has requested a transfer him from Agartala, Tripura to Bhiwani, Haryana, as he faces problems in his current station.

**2. Submissions made by the Respondent:**

2.1 The Respondent, in their reply, submitted that Mr. Anil Meel (PRT) joined KV No.1 Agartala (Kunjban) on 05.09.2019 and was assigned to the North East Zone. According to KVS Transfer Guidelines para 2(ii), employees posted in the North Eastern Region or hard stations are not eligible for transfer before completing a tenure of 3 years. The annual request transfer process for the year 2022-23 was put on hold due to incomplete tenure at hard stations. The Kendriya Vidyalaya Sangathan issued transfer orders for PGT/ TGT/ PRT based on administrative grounds to ensure a rational distribution of teaching staff and to maintain a

minimum of 50% regular staff in all Kendriya Vidyalayas across the country. Due to these factors, the Complainant's request was not accepted.

### **3. Submissions made in Rejoinder:**

3.1 The Complainant filed his rejoinder through an email dated 02.07.2023 and stated that he is not satisfied with the response of his regional office. Furthermore, he stated that two disabled employees posted in the North East region were transferred even though they had not completed their tenure of hard station, and they were transferred to their requested station. It is not mandatory for a disabled employee to complete his tenure of hard station and this is clearly mentioned in the KVS transfer policy.

### **4. Response from the Complainant:**

4.1 The complainant, vide an email dated 14.09.2023, filed a representation and confirmed that he transferred to his native place during the recent annual transfer in 2023, and requested to withdraw his complaint.

### **5. Observations /Recommendations:**

5.1 Considering that the Complainant grievance has been redressed, no further intervention is required in this matter.

5.2 Accordingly, with the approval of the Chief Commissioner, this case is disposed of.

**Signed by Praveen Prakash  
Ambashta**

**Date: 16-10-2023 23:06:11  
Reason: Approved**

**( P.P. Ambashta )  
Dy. Chief Commissioner**



## न्यायालय मुख्य आयुक्त दिव्यांगजन

**COURT OF CHIEF COMMISSIONER FOR PERSONS WITH DISABILITIES (DIVYANGJAN)**

दिव्यांगजन सशक्तिकरण विभाग/Department of Empowerment of Persons with Disabilities (Divya ngjan)

सामाजिक न्याय और अधिकारिता मंत्रालय/Ministry of Social Justice & Empowerment

भारत सरकार/Government of India

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5<sup>th</sup> Floor, N.I.S.D. Bhawan, G-2, Sector-10, New Delhi-110075; Tel.: (011) 20892364

Email: ccpd@nic.in; Website: www.ccdisabilities.nic.in

### Case No. 13953/1021/2023

#### Complainant:

Shri Alok Kumar Singh  
Assistant Administrative Officer  
LPM Section ICAR-IVRI,  
Izatnagar – 243122  
Bareilly, UP  
Mobile No – 9897494269  
Email – alok.ivri@gmail.com; alok.singh@icar.gov.in

#### Respondent:

The Secretary,  
Indian Council of Agricultural Research,  
Krishi Bhawan,  
New Delhi – 110001  
Telephone No – 011-23384450  
Email – secy.icar@nic.in

#### Affected Person: Complainant, a person with 45% disability

##### 1. GIST OF COMPLAINT:

1.1 Shri Alok Kumar Singh, a person with 45% locomotor disability is working as an AAO in ICAR. He stated that ICAR implemented reservation in promotion for persons with benchmark disabilities (PwBDs) vide Endorsement F.No. 2L-25/2022-CDN, dated 27.05.2022. In this connection, ICAR compiled the information of feeder grade (AAO) for the post of Administrative Officer and issued the seniority list of feeder grade (AAO) vide circular No. F.No. Admn. 3-3/2021-Estt.1, dated 25.11.2022.

1.2 ICAR also provided a copy of the PwBD Reservation Roster under RTI, which shows that 4 vacancies for the post of Administrative Officer, for the Vacancy Year-2022, were reserved for PwBDs under the promotion quota, out of a total of 8 vacancies.

1.3 Despite available vacancies and completion of a minimum service of 3 years as an Assistant Administrative Officer on 01.01.2023, promotion orders of SS Rawat, Sh. Lalit Mohan Tewari, Sh. AK Singh, and Sh. Arun Verma have not been issued till date. This is despite recommendation of this Court in an earlier case filed by Sr. Arun Verma in Case No. 13207/1021/2022, that the delay in promotion orders affects the seniority in the Administrative Cadre.

## **2. SUBMISSIONS MADE BY THE RESPONDENT:**

2.1 The Respondent vide email dated 11.05.2023 submitted that while issuing the seniority list of AAO, ICAR also compiled & included the details of PwBD candidates in the seniority list issued vide Circular dated 25.11.2022.

2.2 He submitted that the Complainant is wrongfully fabricating issues & presenting incorrect facts despite having clear information in terms of RTI reply to Shri Arun Verma dated 19.10.2022. It is further submitted that under point 2 of the said RTI reply, it was informed that total anticipated vacancies for the post of AO under promotion quota are 4 for the year 2022. Nowhere it has been mentioned that there are 4 vacancies reserved for PwBD candidates.

2.3 As per prescribed procedure for reservation of PwBD candidates, a vacancy based reservation roster is to be maintained & 1<sup>st</sup> point is to be reserved for PwBD category for the first block of vacancies. The applicant was also provided an up to date reservation roster of PwBD as on date of RTI reply in which all the 4 vacancies of the year 2022 were plotted. It is also clearly indicated in the roster at column number 09, which mentioned whether vacancy is "reserved or unreserved", that the 1<sup>st</sup> point in the roster is reserved for PwBD candidates having disability under Category 'a' and rest of the 3 points are mentioned as unreserved. Therefore, only 1 vacancy out of 4 for the year 2022 was reserved for PwBD candidates & that too for candidates with disability of category 'a'.

2.4 As per DOP&T OM dated 17.05.2022, it is stated that while filling up the reserved vacancies by promotion by selection, those PwBD candidate who are within the normal zone of consideration, shall be considered for promotion. However, if adequate number of PwBD candidate of the respective category are not available within the normal zone, the zone of consideration may be extended to five times of the number of vacancies and the PwBD candidate falling within the extended zone may be considered for promotion. In the event of non-availability of candidates even in the extended zone, the vacancy shall not be filled and be carried forward to the subsequent year.

2.5 The Zone of consideration for 04 posts of AO was 12 eligible AOs and extended one of consideration was 20 eligible AAOs. Accordingly, no eligible AAO of PwBD was found even in the extended zone of consideration. Therefore, there was no delay in promotion orders and the 01 reserved vacancy of PwBD Category 'a' has been carried forward to be filled in next year.

2.6 Shri Alok Kumar Singh & Shri Surender Singh Rawat as well other officers mentioned by them were not in the zone of consideration as per final combined seniority/eligibility list of Assistant Administrative Officer (AAO) in ICAR as on 31.12.2022 and accordingly was not considered for promotion as per guidelines issued vide DoPT OM dated 17.05.2022.

### **3. SUBMISSIONS MADE IN REJOINER:**

3.1 The respondent reply was forwarded to the Complainant vide email dated 02.06.2023 for submission of rejoinder. However, no response has been received from the Complainant.

### **4. OBSERVATIONS & RECOMMENDATIONS:**

4.1 The Recruitment Rules for the Post of Administrative Officer has been perused. As the method of recruitment is "Selection", it will entail a Zone of Consideration and a prescribed Benchmark over and above the requirement of Eligibility and Fitness which are required for Non-selection method of promotion. The action of the Respondent appears to be in keeping with the guidelines issued by DoP&T in this regards as well as those on the issue

of reservation for PwBD in promotion issued vide O.M. dated 17.05.2022. As such, this Court concludes that the Complainant has not made any case of discrimination on the basis of disability. Intervention of this Court in the present Complaint is not warranted.

4.2 Accordingly, the case is disposed of.

**(Rajesh Aggarwal)**  
Chief Commissioner  
for Persons with Disabilities





न्यायालय मुख्य आयुक्त दिव्यांगजन

**COURT OF CHIEF COMMISSIONER FOR PERSONS WITH DISABILITIES (DIVYANGJAN)**  
दिव्यांगजन सशक्तिकरण विभाग/Department of Empowerment of Persons with Disabilities  
(Divyangjan)

सामाजिक न्याय और अधिकारिता मंत्रालय/Ministry of Social Justice & Empowerment  
भारत सरकार/Government of India

5वाँ तल, एन.आई.एस.डी. भवन, जी-2, सेक्टर-10, द्वारका, नई दिल्ली-110075; दूरभाष : (011) 20892364  
5<sup>th</sup> Floor, N.I.S.D. Bhawan, G-2, Sector-10, New Delhi-110075; Tel.: (011) 20892364  
Email: ccpd@nic.in; Website: www.ccdisabilities.nic.in

**Case No. 13993/1024/2023/193391**

**Complainant:**

Shri Vikas Chahal  
Email: kasu.chahal@gmail.com  
Mobile: 9416956576

**Respondent:**

The Secretary  
Department of Personnel & Training  
Ministry of Personnel, PG and Pensions  
North Block, New Delhi- 110001  
Phone No. 011-23092338  
Email: diradmin@nic.in

**1. परिवाद का सार :**

1.1 शिकायतकर्ता श्री विकास चहल, जो कि एक 80% लोकोमोटर अक्षमता तथा वाले व्यक्ति हैं , ने व्हील चेयर उपयोगकर्ताओं / शारिरिक रूप से विकलांग/ नेत्रहीन अधिकारियों को बायोमेट्रिक उपस्थित प्रणाली के माध्यम से अपनी उपस्थिति दर्ज करने से छूट देने के सम्बन्ध में शिकायत दिनांक 15.03.2023 दर्ज की |

1.2 शिकायतकर्ता का अपनी शिकायत में कहना है कि कार्यालय राज्य आयुक्त दिव्यांगजन (हरियाणा) द्वारा जारी संदर्भित पत्र के माध्यम से हरियाणा राज्य के समस्त सरकारी कार्यालयों के व्हील चेयर पर बैठने/शारीरिक रूप से दिव्यांगजन /दृष्टिहीन दिव्यांगजन कर्मचारियों को बायोमेट्रिक मशीन से उपस्थिति दर्ज करने में छूट प्रदान की गई है।

1.3 शिकायतकर्ता ने कहा दिव्य|न्गता अधिकार अधिनियम 2016, के अनुरूप भारत सरकार को भी व्हील चेयर पर बैठने/शारीरिक रूप से दिव्यांगजन /दृष्टिहीन दिव्यांगजन कर्मचारियों को भी बायोमेट्रिक मशीन के माध्यम से उपस्थिति दर्ज करने में छूट प्रदान की जानी चाहिए।

**2. Submissions made by the Respondent:**

2.1 Under Secretary, Department of Personnel & Training filed reply dated 29.05.2023 submitted that during the period of Covid also, when the attendance of government officials was regulated with reduced strength, Persons with Disabilities were exempted to attend offices. We shall, however, instruct all the Ministries/Department to make special arrangements for the PwDs in so far as registering of their attendance through appropriate system like providing easily accessible machines at lower heights or at their desks and for capturing biometrics through Face Recognition Machines. It would, however, not be feasible to provide a blanket exemption to the PwD from marking their attendance through Biometric System as requested by Shri Vikas Chahal in his Complaint.

**3. Submissions made in Rejoinder:**

3.1 The Complainant has not filed any rejoinder to the reply of the respondent.

**4. Observations and Recommendations:**

4.1 This Court is inclined to agree with the Respondent that a blanket exemption to the PwD from marking their attendance through Biometric System can not be provided. The issue raised by the Complainant can be resolved by opting for alternative methods of taking attendance as suggested by the Respondent. Intervention of this Court in the present Complaint is not warranted.

4.2 The case is disposed of accordingly.

**Signed by Rajesh Aggarwal**

**Date: 17-10-2023 17:49:14**

**Reason: Approved**

**( Rajesh Aggarwal)**

Chief Commissioner  
for Persons with Disabilities



न्यायालय मुख्य आयुक्त दिव्यांगजन

**COURT OF CHIEF COMMISSIONER FOR PERSONS WITH DISABILITIES (DIVYANGJAN)**  
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Email: ccpd@nic.in; Website: www.ccdisabilities.nic.in

**Case No: 14032/1022/2023**

**Complainant**

Shri Kedar S Kulakarni  
No.2, Ground Floor Flat No. 3  
Vasanth Apartments, Charry Road,  
Shenoy Nagar, Chennai-600030  
Email < kedarskulakarni@gmail.com >

**Respondents**

The Director General  
Indian Council for Cultural Relations  
Azad Bhawan, IP Estate  
New Delhi-110002  
Email ID : grievance@iccr.gov.in

**GIST OF THE COMPLAINT:**

1.1 Mr. Kedar S. Kulkarni, a person with 70% cerebral palsy, filed a complaint dated 20.03.2023 requesting for transfer to a place nearby his hometown in Chennai. He is employed as a Lower Division Clerk at the Indian Council for Cultural Relations and was posted at Bengaluru at the time of filing this Complaint.

1.2 Further, he mentioned that he appeared for the recruitment examination conducted by the ICCR in September 2020 and qualified the exam successfully. During the process of document verification in July 2021, he had indicated Chennai as his top choice due to his disability and family circumstances. However, as the regional office in Chennai had been shut down and integrated into the zonal office in Bengaluru, he was posted to Bengaluru. Initially, he was staying at his uncle's place at Bengaluru and with difficulty managing to travel to his work, which was 15 kms away from his uncle's place. However, due to some medical emergency in the family of his uncle, he had to shift to another accommodation, which was quite far from his office.

1.3 The Complainant also submitted that his parents are settled in Chennai, and his father is suffering from Parkinson's disease and it is not possible for the parents to relocate to Bengaluru. He had represented to the ICCR for his transfer to Chennai, but his request has not yet been acceded. He requested for the intervention of this Court.

## **2. REPLY OF THE RESPONDENT:**

2.1 On behalf of the Respondent, Shri Awanish Tiwari, Director (Administration), ICCR vide letter dated 01.06.2023 filed reply in the matter and submitted that Shri Kedar S. Kulkarni had joined as LDC under PWD category at ICCR Headquarter Delhi on 23.11.2022 and transferred to Zonal office, Bengaluru on his written request on 02.12.2022. The Council has taken prompt action to transfer him Zonal Office, Bengaluru on his request. Since there is no Zonal/sub-Zonal office of ICCR in Chennai, being empathetic to his needs, ICCR posted him to its office in Bengaluru, the nearest city to Chennai.

## **3. SUBMISSION MADE IN REJOINDER:**

3.1 The Respondent's reply was forwarded to the Complainant vide email dated 09.08.2023 for submission of rejoinder, if any. However, no response has been received from the Complainant.

## **4. OBSERVATIONS & RECOMMENDATIONS:**

4.1 Considering that the Respondent has already taken a decision to post the Complainant in the Bengaluru Zone, which is the nearest station to Chennai out of the available options, this Court is satisfied with the reply of the Respondent and finds no reason to intervene in the matter. The Respondent, shall, however, review the posting of the Complainant as and when any option to post him at Chennai or another nearer place becomes available.

4.2 Accordingly, this case is disposed of.

**Signed by Rajesh Aggarwal**

**Date: 23-10-2023 10:53:47**

**Reason: Approved**

**(Rajesh Aggarwal)  
Chief Commissioner  
for Persons with Disabilities**



## न्यायालय मुख्य आयुक्त दिव्यांगजन

**COURT OF CHIEF COMMISSIONER FOR PERSONS WITH DISABILITIES (DIVYANGJAN)**  
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**Email: ccpd@nic.in; Website: www.ccdisabilities.nic.in**

**Case No. 14106/1101/2023**

**In the matter of—**

Shri Abhishek Kumar Devda,  
 Email: navkaaracademy2019@gmail.com  
 Mobile: 9887284740

**... Complainant**

**Versus**

(1) Kotak Mahindra Bank,  
 Through its Director/  
 Chief Executive Officer,  
 27 BKC, C 27, G Block,  
 Bandra Kurla Complex,  
 Bandra (E), Mumbai 400051 (Maharashtra)

**... Respondent No.1**

(2) The Branch Manager,  
 Kotak Mahindra Bank,  
 Chittorgarh Branch,  
 Ground Floor Jagannath Tower,  
 Bhilwada Road,  
 Near Higher Secondary School,  
 Chittorgarh Rajasthan-312001  
 Email ID: service.bank@kotak.com

**... Respondent No.2**

### **1. Gist of Complaint:**

1.1 Mr. Abhishek Kumar Devda, a person with 46% Locomotor disability from Chittorgarh, Rajasthan; filed a Complaint dated 13.04.2023 regarding inaccessibility of the Chittorgarh Branch of the Kotak Mahindra Bank. He submitted that he has an account with the said bank since 2016. The branch is not accessible through entrance. The stairs built at the main gate are very difficult in climbing and descending and he falls down again and again. After rigorous persuasion only a steel railing has been installed only at one side, which is of no help. He also submitted that he had filed a complaint in this regard with the bank vide No. 202122315001544 but no action was taken by the bank. The bank authorities are responsible to provide accessible counter for persons with disabilities. He requested to take strict action against the bank.

**2. Submissions made by the Respondents:**

2.1 The Branch Manager, Kotak Mahindra Bank filed a reply dated 04.07.2023 and inter-alia submitted that they had responded to the Hon'ble Office of the Banking Ombudsman, Jaipur with regard to the earlier complaint filed by the Complainant about non-feasibility of constructing ramp outside Chittorgarh Branch with appropriate reason. He also submitted that in accordance with the RBI Circular No. RBI/2013-14/637 UBD.BPD and Circular No. 70/13.03.000/2013-14 dated 11.06.2014, a notice has been affixed outside the branch displaying the reasons for not providing ramp facility.

2.2 The Respondent further submitted that on receipt of the Notice from this Court, the bank officials along with Bank's infrastructure team and property owner discussed the matter with the customer Shri Abhishek Kumar Devda and explained to him that constructing a ramp outside the Chittorgarh Branch is not feasible. Due to the height of the ATM, more space is required to construct a ramp, which is not available.

2.3 The Respondent further submitted that in order to give resolution to the Complainant and other customers with disabilities, railings have been constructed on both sides. Post constructions of railings, the customer has visited the site and inspected the work by using it. The Respondent also enclosed a copy of letter dated 30.06.2023 signed by the Complainant, wherein he expressed his satisfaction with the redressal of his grievance by the Bank and had requested to withdraw his complaint in Bank's favour.

**3. Submissions made in Rejoinder:**

3.1 The Reply of the Respondent was forwarded to the Complainant for rejoinder, if any. No rejoinder was, however, received so far from the Complainant.

**4. Observations & Recommendations:**

4.1 In view of the fact that the Complainant has expressed satisfaction with the resolution of his grievance and requested for withdrawal of his complaint, no further intervention is required in this matter of individual grievance.

4.2 However, mandated with the monitoring of implementation of the RPwD Act, 2016 as per Section 75 (1) (h) of the Act, this Court will be failing short of in discharge of its duties if the larger issue of ensuring accessibility of public buildings and public services for the persons with disabilities as enshrined in Section 40, 45 and 46 of the Act. Accordingly, a copy of this Order be sent to the Department of Financial Services, Ministry of Finance (DFS) and to the Reserve Bank of India (RBI) seeking their comments on action taken so far to implement the provisions of Chapter - VIII of the RPwD Act in both government as well as private banking and insurance companies. The response should show cause as to why the banks and insurance companies who have failed to make their buildings and services accessible to persons with disabilities despite a statutory mandate in this regard, should not provide their services to their customer with disabilities either at the doorstep of the customer or at the place within their establishment which is accessible to such customers.

4.3 The Comments of the DFS and the RBI and Action Taken Report, if any, shall be furnished to this Court within 30 days from the date of this Order, failing which this court may be constrained to initiate action as deemed appropriate for violation of the aforesaid provisions and also for the offence of failure to furnish information sought under the Act, as enshrined in Section 93 of the Act.

4.4 Accordingly, the case is disposed of.

**Signed by Rajesh Aggarwal**  
**Date: 22-10-2023 17:38:10**  
**Reason: Approved**

**(Rajesh Aggarwal)**  
Chief Commissioner for Persons with Disabilities