



## 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. 13576/1024/2022/155729**

**In the matter of: -**

### **Complainant:**

Smt. Syed Mehtaj Begum  
 W/o Sd. Mahaboob Basha  
 Ibrahimpet, Mosque Street  
 Bitragunta- 524142, Nellore Distt. (A.P.)

### **Respondents:**

- (1) The Chief Medical Superintendent/RH  
 South Central Railway  
 Vijayawada- 520001
- (2) The Principal Chief Medical Director  
 Rail Nilayam  
 South Central Railway  
 Secunderabad-500025

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

1.1 Smt. Syed Mehtaj Begum filed the complaint dated 17.08.2022 requesting for grant of family pension to her brother Md. Shaffi, who is a person with 79% locomotor disability in his right upper and lower limbs and aged 48 years.

1.2 She submitted that her father late Abdul Rasool was working as a Railway Passenger Driver who retired from the Service on

31.10.2000 and died on 20.09.2020. After the death of her parents, her brother is residing with her. Her brother is only a bachelor and is unable to earn his livelihood throughout his lifetime. She further submitted that Sr. DPO and the Sanctioning Authority, South Central Railway referred her brother's case to Chief Medical Superintendent/Railway Hospital, Vijayawada vide letter dated 09.02.2022, certifying that her brother was medically examined and it is found that he is suffering from weakness in Right Upper and Lower Limb with 79% of disability and capable of earning a livelihood. Hence, the Medical Authority did not recommend his family pension. The case was not considered for a family pension and was closed.

1.3 She appealed to the higher authority, i.e. the Chief Medical Director, Rail Nilayam, Secunderabad to conduct further medical examination in Zonal Level vide letter dated 02.06.2022 but it was not accepted.

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

2.1. Ms. Mondreti Srilakshmi, Chief Medical Superintendent, Railway Hospital, Vijayawada Division, South Central Railway, Respondent No. 1 filed reply and inter alia submitted that Shri S.K Md. Shaffi S/o Late Shri Abdul Rasool, Ex-Railway Passenger Driver was brought for Medical Examination to Railway Hospital, Vijayawada for grant of disability family pension vide Senior Divisional Personnel Officer, Vijaywada's letter dated 09.02.2022. A Medical Board consisting of three specialist doctors was constituted on 05.02.2022, consisting of the Railway Specialist Medical Officers. The three Member Board examined Md. Shaffi and made a detailed clinical note mentioning that he was having weakness in the right upper and right lower limbs, but can walk on his own without support and the grade of motor power on the affected side of body is grade-III to IV /V as on the (normal) left side, the motor power is grade-V/V.

2.2. She further submitted that as per Rule 75 of Railways Services (Pension Rules), before allowing Family Pension to any such child, the sanctioning authority shall satisfy that the handicap is of such a nature as to prevent him or her from earning his or her livelihood. The Medical Board opined that in the case of Md. Shaffi, the nature of handicap is not so severe as to prevent him from earning his

livelihood. Hence, the Medical Board did not recommend his case for a grant of life time family pension.

2.3 An appeal was made by the Complainant to the Chief Medical Director, Railway Nilayam, Secunderabad. The Principal Chief Medical Director, Secunderabad agreed to revise Medical Board at Railway Hospital, Lallaguda, Secunderabad. Md. Shaffi was informed to collect authorization from Senior Divisional Personnel Officer, Vijayawada for attending the Review Medical Board at his convenient date. Senior Divisional Personnel Officer, Vijayawada has been instructed to treat this case as top priority and issue an authorization letter whenever Md. Shaffi or any of his guardian representatives present themselves for collecting the authorization letter to establish the credentials of the candidate for Review Medical Board at Secunderabad. She submitted that the complaint is premature as the available means of redressal have not been exhausted as it was informed to the Complainant to present her brother before the Principal Chief Medical Director, South Central Railway, Secunderabad for re-medical examination after collecting authorization from Personnel Office at Vijayawada.

2.4. Dr. C. Ravindra Sharma, Chief Health Director, South Central Railway, Secunderabad filed reply dated 11.01.2023 and inter-alia submitted that the guardian had not submitted any documentary proof of the employee declaring his son as dependent due to permanent disability. There is no identify card or any proof of the deceased Railway Servant, showing that his son is dependent. In view of the above, sanction of family pension at this state is not possible as per extant rules.

2.5 He referred to Railway Pension Rules 7(b)(6)(d) which states that "before allowing the family pension for life to any such son or daughter the appointment authority shall satisfy that the handicap is of such a nature so as to prevent him or her from earning his or her livelihood and the same shall be evidenced by a certificate obtained from a Medical Board comprising of a Medical Director or a Chief Medical Superintendent or in-charge of a Zonal Hospital or Division or his nominee as Chairperson and two other members, out of which at least one shall be a specialist in the particular area of mental or physical disability including mental retardation setting out, as far as

possible, the exact mental or physical condition or the child."

2.6 In this case, the Medical Board during the medical examination conducted on 05.02.2022, has not recommended the Secondary Disabled Family Pension to Mohd. Shaffi stating that he is suffering from weakness in Right upper and lower limbs with disability of 79% and he is capable of earning a livelihood. In view of the recommendation of the Board, this case is not considered for a secondary family pension.

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

3.1 In her rejoinder dated 25.01.2023, the Complainant reiterating her complaint. She also mentioned that her brother was suffering from the 79% permanent Locomotor Disability since 2012 and not by birth. The Government of Andhara Pradesh had recognized his disability to sanction monthly pension of Rs. 3,000/- as a disability pension. She also referred to Ministry of Pension and Pensioners Welfare Office Memorandum dated 26.10.2022 regarding grant of family pension to a member of the family whose name is not included in Form 4 or in Office Records. She referred to paras 5 and 6 of the said OM which provides that where the family of a Government Servant undergoes a change after his retirement rendering a member of the family to be eligible for family pension on account of events such as a birth of a child or disability of a child or sibling or divorce of a daughter or death of husband of a daughter, the retired Government servant or if the Government Servant had already died his or her spouse or any other member of the family in receipt of the family pension, may give intimation supporting documents to the Head of Office and the Head of Office shall return a copy of the intimation acknowledging the receipt of the said intimation. The claim of a member of the family shall not be rejected on the ground that the details of such member of the family are not available in Form 4 or in office records. If the Head of Office is otherwise satisfied with the eligibility of the Member of the family for grant of family pension.

**4. Hearing:** The matter was heard by the Chief Commissioner for Persons with Disabilities through video conference on 20.10.2023. The following were present:

**Complainant:** Mr. Anwar, Husband of the Complainant (on the

1/2109/2023

phone)

**Respondent No 01:** Dr. Murli, Chief Medical Superintendent, South Central Railway, Vijaywada

**Respondent No 02:** Dr. MM Haque, Principal CMD, Central Railway, Secunderabad

## **5. Observation & Recommendations:**

5.1 The Complainant is seeking direction from this Court for the grant of lifetime family pension to her brother on account of being a disabled son of a deceased pensioner from the Indian Railways. However, as per Rule 75 of the Railways Services (Pension Rules), the disabled son or daughter of a deceased government servant or pensioner is entitled to lifetime family pension only if their disability is such that renders them incapable of earning their livelihood. In the present case, the Medical Board while confirming the brother of the Complainant to be a person with disability, clearly stated that the disability is not such which makes the individual incapable of earning his livelihood.

5.2 In view of the above, it is concluded that the Complainant has not been able to shown any discrimination on the ground of disability or deprivation of any rights of a person with disability. As such, the intervention of this Court is not warranted. The Complainant is advised to make use of various central and state schemes and make endeavours for gainfully employing her brother.

5.3 Accordingly the case is disposed of.

**Signed by Rajesh Aggarwal**

**Date: 17-12-2023 12:08:56**

**Reason: Approved**

**(Rajesh Aggarwal)**

Chief Commissioner

For Persons with Disabilities



न्यायालय मुख्य आयुक्त दिव्यांगजन

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**Case No: 13769/1022/2023**

**Complainant:**

Sh. Sandeep Paridala  
Manager, State Bank of India,  
SARB Koti, Hyderabad.  
PF No.6477305  
Ph: 8985903747  
Email - sandeep.paridala@sbi.co.in

**Respondent:**

The Chairman,  
State Bank of India,  
State Bank Bhavan,  
Madame Cama Marg, Mumbai, 400021  
Email ID - chairman@sbi.co.in

**1. Gist of the Complaint**

1.1 The Complainant is a person with 70% Locomotor (Cerebral Palsy) has filed a complaint dated 05.01.2023, working as Manager (Scale-3 officer) in State Bank of India, requesting for posting as Branch Manager in Hyderabad City preferably nearby Kukatpally.

1.2 The Complainant stated that he is residing in Flat No. 1613, Tower 2, Swanlake Apartments, Kukatpally. On July 2022, he got posted as Branch Manager in Manikonda Branch in Gachibowli. Within 10 days, without any information and reason, the Respondent posted him as Deputy Branch Manager in PBB Branch Hills which was far away from his previous branch. He filed a complaint in SBI

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internal portal "Sanjeevani". As a result, the Respondent transferred him to another farther place Koti as Manager in October 2022. Due to this act of the Respondent, the Complainant felt insulted badly and humiliated in front of all relatives, friends and banking society as everyone thinks that he had some issues in Manikonda branch like customer complaints, sexual harassment, disciplinary action, fraud, incapability, etc.

1.3 Further, the Complainant stated that this defamatory action of the Respondent can affect his career severely as it may affect his performance, postings, treatment in the branches etc. Moreover, the assignment of the post of Branch Manager is compulsory for promotions. The management is creating barrier in his career growth.

1.4 The Complainant stated that the quick transfers look like arbitrary and purely vindictive action of the Respondent, particularly when having without any explicit reasons or seeking explanation, or even a counseling, warning or feedback. He further submitted that his new place of posting, Koti is 15 KM away from his home with heavy traffic which makes it difficult to travel by road with his disability and respiratory problems.

1.5 He stated that he is suffering from mental stress/illness and doctors have confirmed that his Cholesterol level has decreased and below than the minimum due to this heavy stress. His energy levels got decreased and unable to focus on the work. Due to this, his mental stress and respiratory problems increased resulted in consuming lot of leaves for 5 months. He complained to higher authority in all possible ways, even he requested the HR management in Local Head office, Hyderabad for transfer nearby home to any post. But no response has so far been received from them.

1.6 The Complainant specifically named Mr. Ram Singh, Deputy General Manager, SBI Cyberabad Zone, Local Head Office Koti, Hyderabad for targeting and harassment. He also submitted that the Bank has issued Equal Opportunity Policy for the PwDs, however, no Liaison Officer is designated for Persons with Disabilities in the Hyderabad Circle as per the said policy.

1.7 The Complainant prayed for relief by posting him again as Branch Manager in Hyderabad City preferably nearby Kukatpally.

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

2.1 The matter was taken up with the Respondent vide letter dated 06.03.2022 under Section 75 of the RPwD Act, 2016 followed up reminder letter dated 22.03.2023.

2.2 In response, the General Manager, State Bank of India vide email dated 10.04.2023 submitted that petitioner joined the the Bank on dated 02.07.2012 as a Probationary Officer under PwD category with 70% disability. He was confirmed on 02.07.2014, while he was posted in Dirusummaru Branch. The Complainant is currently posted as Manager in Stressed Assets Resolution Branch (SARB) Hyderabad w.e.f. 12.10.2022 onwards. SARB is an important Business Group of State Bank of India. It deals with recovery and resolution of non-performing assets of the Bank. Staff working in this group are having equal promotional opportunities along with other staff.

2.3 In response, as per service condition applicable to the officers, the complainant was given various assignments by the Bank, and all the assignments and postings were at Hyderabad only, that is his place of stay as per the Bank's Policy for Persons with disabilities. The Respondent submitted details of various assignments done by him to establish that he was given timely promotions and postings without any discrimination. On Complainant's request for MB posting, Bank decided to post him as Branch Manager of AO, Cyberabad. However, considering the customer's feedback at Manikonda Branch received through its controllers vide letter No. PRO/MAD/HR dated 21.03.2023, a copy of which was attached by the Respondent, it was concluded that the Officer is still not ready to handle the Branch independently. As such, he was shifted as Deputy Branch Manager of PBB Banjara Hills Branch.

2.4 The Respondent further submitted that the instances of customer complaints were repeated at PBB Banjara Hills Branch also. An Ex-Member of Parliament and veteran film actress Smt. J Jamuna and her family members, who are valuable clients of PBB Bajara Hills Branch, submitted written complaints alleging rude and inappropriate behavior with specific request to take necessary action against him. The Bank conducted internal investigation which revealed that there was misbehavior on the part of the official. Such



instances lead to disciplinary action normally and even suspension in some cases as customer service and customer satisfaction is Bank's top priority. The Bank looks customer's complaint as a Zero tolerance and any misbehavior towards customers with severe disfavor.

2.5 However, in this case, considering his disabilities, the Bank decided to give him one more opportunity and posted him in SAR Branch Hyderabad where there is minimal customer footfall and also the officer would have opportunity to gain experience and expertise in managing Bank's stressed assets.

2.6 The Respondent further submitted that the State Bank of India has a legacy of being the most employee friendly bank, supporting and nurturing its employees and providing safe and secure working environment without any discrimination.

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

3.1 The Complainant filed the rejoinder vide email dated 27.04.2023, and stated that he is facing lot of discrimination in postings. With that unusual transfer from Manikonda, he faced a lot of insult from colleagues, relatives and friends, mental stress due to overthinking, wastage of time due to overthinking and requesting with management, physical strain, health issues like sinus and other lung related problems, monetary loss etc. Please consider all the above points and do the justice accordingly and avoid further issues.

**4. Hearing:** The matter was heard by the Chief Commissioner for Persons with Disabilities through video conference on 20.10.2023. The following were present:

**Complainant:** Sh. Sandeep Paridala

**Respondent:** Smt. Majnu Sharma, General Manager

### **5. Observation & Recommendations:**

5.1 The Respondent submitted that the complainant's grievance is that he should be given the assignment of a Branch Manager. As for as the branch manager assignment is concerned, it is not mandatory for his future promotions. The complainant has already been given the chance of the post of Branch Manager at Manikonda Branch of AO Cyberabad. However, considering the customer feedback at Manikonda Branch, the officer is still not ready to handle the Branch

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independently. As per the Bank's requirement and the suitability of the officer, he has been posted as Manager in Stressed Assets Resolution Branch (SARB) Hyderabad w.e.f. 20.10.2022 onwards. The Complainant posting was in the same city which is as per SBI Transfer policy.

5.2 In view of the above it is concluded that the Complainant has not been able to show any discrimination on the ground of disability or deprivation of any rights of a person with disability. The instructions on posting/transfers are of recommendatory nature. Even those instructions do not mean to restrain the employer from transferring an employee with disability to another office within the same city or to change the assignment based on the need of the organisation and the suitability of the incumbent. As such, no further intervention of this Court is required in the matter.

5.3 Accordingly the case is disposed of.

**Signed by Rajesh Aggarwal**  
**Date: 17-12-2023 12:07:41**  
**Reason: Approved**

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



न्यायालय मुख्य आयुक्त दिव्यांगजन

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

**Case No. 13937/1021/2023**

**In the matter of:**

**Complainant:**

- (1) Shri Rajiv Kumar Verma  
290/60, Anand Kunj, Mangluwala,  
Dehradun – 248001 (UK)  
Mobile No. – 9411340989  
Email – rajiv\_verma\_72@yahoo.com
- (2) Shri Adil Khan  
Manzil, Nehrugram, Dobhal Chowk  
Dehradun – 248001 (UK)  
Mobile No. – 9897129490  
Email – adil.soi@gov.in

**Respondent:**

- (1) Surveyor General of India  
Surveyor General's Office  
Hathibarkala  
Dehradun – 248001 (UK)
- (2) Secretary,  
Ministry of Science and Technology  
Department of Science and Technology  
Technology Bhavan  
New Mehrauli Road  
New Delhi – 110016

**Affected Person: Shri Rajeev Kumar Verma, a person with 50%**

## **Locomotor Disability and Shri Adil Khan, a person with a 40% Locomotor Disability**

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

1.1 The Complainants Shri Rajeev Verma and Shri Adil Khan, are currently working in the office of the Surveyor General of India. In their complaint dated 21.02.2023, filed before this Court, they stated that they had joined in erstwhile Northern Circle (now Uttarakhand & West Uttar Pradesh Geo Spatial Data Centre), Survey of India. Dehradun on 13.05.1999 as Lower Division Clerk after successfully qualifying the competitive examination conducted by the Staff Selection Commission.

1.2 The Complainant further submitted that the Survey of India is the subordinate office of the Ministry of Science & Technology. They have not implemented the provision of reservation in promotions for persons with disabilities. They requested the Respondent for the same many times but their requests have not been considered yet. Aggrieved with the above, the applicants decided to approach this Court.

1.3 The Complainant submitted that the reservation of 3% to the persons with disabilities was being given in promotion to the posts of upper division clerks, Assistants, and Office Superintendents in Survey of India as these posts, were earlier Group 'C' posts and were identified suitable for PH employees. Subsequently, the posts of Assistant and Office Superintendent were classified as Group 'B' (Non-Gazette) without any change in their work and responsibilities.

1.4 The Complainant submitted that reservation in promotion to the post of Assistant and Office Superintendent should have been given to the employees with disabilities as per the existing recruitment rules. But, the same was not done in their case.

1.5 In response to the representations and RTI applications of the complainants, the Surveyor General Office decided to get it clarified by the Department of Science & Technology (DST), New Delhi. But the decision from DST was not received even after 3 years. Meanwhile, undertakings were being taken from all employees who

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were being considered for promotion after 2003 to abide by the decision of DST regarding the reservation of promotion of PwDs.

1.6 That as per the SGO letter on the subject mentioned above, no PwD has been promoted, whereas it is evident from records that two vacancies for the persons with benchmark disability were there which were kept unfilled for the want of PwBD candidates of a particular categories viz. Blind and Deaf as mentioned for points 01 & 02. In this way, both vacancies are kept unfilled whereas two candidates (PwBD) having locomotor disability including the applicant are in the queue for promotion. As a result, injustice is being done to these candidates.

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

2.1 The Respondent vide letter dated 27.04.2023 submitted that as per DoPT order and guidelines reservations in the promotion to PwBD were given in Group 'C' cadre up to the year 2012 by the provision contained in the rules. As per DoPT OM No. 36035/3/2004-Estt (Res) dated 29.12.2005 reservation in promotion in Group 'B' posts is not applicable for disabled persons. In the Survey of India an order of classifications of posts was issued vide letter No. W-756/709-GDC dated 07.09.2009 in which the post of Assistant/Head Clerk had been classified as Group 'B' Non-Gazetted wherein the applicant has sought reservation in PH category. When this aspect came to the notice of the competent authority, the matter was referred to the DST to clarify whether the reservation for PH in promotion to Group 'B' (Non-Gazetted) posts is applicable or otherwise. As per clarification received from DST vide their letter dated 27.02.2018, the reservation for PH employees in the Group B cadre was not applied. DPC against vacancies for the year 2022 was completed up to March 2022, therefore the reservation in group B in relevance to DoP&T OM dated 17.05.2022 does not arise retrospectively.

2.2 DPC for promotion from the post of Assistant/HC to the post of Office Superintendent against the vacancies for the year 2023 has been convened on 22.12.2022 and 2 vacancies have been earmarked for PH category point 1 and 2. **The category 1 meant for blindness and 2 for low vision and deaf and hard of hearing.** Whereas the petitioner Shri Rajeev Kumar Verma belongs to category 3 i.e.,

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locomotor disability as per 13 (1) of DoP&T OM dated 17.05.2022, in the first-year vacancy cannot be filled by another category. Hence his name has not been included in the zone consideration as well as in the select panel of the DPC. The above 2 vacancies have been carried forward to the next year i.e., 2024.

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

3.1 The Respondent's reply was forwarded to the complainants, who submitted their rejoinder vide email dated 15.05.2023 and submitted that the comments of the respondent revolved around the promotion to the post of Assistant and Office Superintendent which were classified as Group 'B' (Non-Gazette) whereas until the Recruitment Rules thereof modified the said classification does not reach to its finality.

3.2 The Respondent has failed to offer any comment on his LDCE examination conducted during 2004 in which he qualified in all subjects within 42% marks but could not get a place in the list of selected candidates on merits as there was no reservation for PH against the rules on the subject. It may also be seen from the Result Sheet of LDCE, 2004 that the category of the applicant has been shown as 'UR' whereas since his appointment the applicant was a PwD. Moreover, if there was a provision for reservation for PH in the Survey of India, his category should have been mentioned as PH instead of UR. This is against of DoPT Rules in vogue as well as their own order No. E2-23481/1952-I dated 23.12.1997 under which reservation to PH employees in their promotions in Survey of India was implemented within Group 'C' category in which posts of UDC, Assistant, and Office Superintendent were identified fit for PH (orthopedically handicapped) employees under Group 'C' category but the same has not been implemented in LDCE for LDC to UDC as well as for further promotion to the subsequent post of the same category.

3.3 If there was a 3% reservation implemented for PH employees, his selection was sure as he was the only physically handicapped candidate in the examination. But instead of offering any comment on whether the reservation to PH employees has been implemented in the Survey of India in the Departmental Examination for the Promotion (LDCE). The respondent replied to their comments that the records of

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LDCE, 2004 have been weeded out hence it is not possible to furnish any comments in this regard. If it has been implemented in Survey of India so far, any documentary proof of LDCE which has been conducted ever implementing the PH reservation of any year, the Respondent may be asked to produce the records. He reiterated that the reservation for PH has never been implemented in the Survey of India in LDCE so far. The documentary proofs of a few notifications arranged through RTI may kindly be perused under which reservations for the SC and ST only have been given no vacancy for a PH employee has ever been reserved in the notification.

**4. Hearing:** The matter was heard by the Chief Commissioner for Persons with Disabilities through video conference on 20.10.2023. The following were present:

**Complainant:** Shri Rajiv Kumar Verma & Shri Adil Khan

**Respondent 01 &02 :** Shri Prashant Kumar, DSG

## **5. Observations & Recommendations:**

5.1 The Complainant submitted that the office of the Surveyor General of India has not implemented reservations for PwBDs candidates in LDCE from 2004 to till date. The Respondent has offered no comments stating that the matter was too old and he has no records. The Complainant has secured 42% marks in LDCE – 2004. If the PwBDs reservation was implemented by SGI, the complainant was promoted in 2004 from LDC to UDC itself. Further, it is submitted that the respondent has classified 'UDC' post as a Group B (Non-Gazetted) in 2009. However, not amended the relevant RRs and the promotion was given as per RRs. The Respondent has adopted two sets of procedures, on one side in respect of Group 'A' officers, the provisions of DoP&T OM dated 17.05.2022 have been implemented w.e.f. 01.01.2022 which was on the plea that DPC for the Superintendent Surveyor and Assistant Director (OL) (Group A posts) were not convened during 2022 due to administrative reasons and were done on the concurrence of UPSC, and DPC for the aforesaid posts were held during February-March, 2023, whereas other side, the Respondent has not conducted DPC for promotions w.e.f 01.01.2022 for the complainant's posts which cause serious loss to the applicants.

5.2 In RRs, it is clearly written that:

A vacancy shall be filled in accordance with the RRs in force on the date of a vacancy unless the rule made subsequently has been expressively given retrospective effect since an amendment to the RRs normally has only prospective effect the existing vacancy should be filled as RRs in force.

5.3 The Respondent submitted that the Complainants' post 'UDC' was classified as Group B (Non-Gazetted) in 2009. Considering the Complainant as Group B, he was not eligible for reservation in promotion. The Recruitment Rules are of 2006 and everyone is promoted as per provisions in the Recruitment Rules. Till 2012, the benefits of reservation were given and 2 officers were also promoted. Complainants were not eligible till 2009 and after that, they were considered as employees of Group B. Further, LDCE was conducted as per a circular order issued in the year 1961.

5.4 This Court concludes that from 20.11.1989, reservation in promotion in Group 'C' and Group 'D' posts were implemented, which remained in force till the OM dated 15.01.2018. On 17.05.2022, reservation in promotion was allowed in all groups. Hence, the contention of the Respondent that the reservation in promotion seized to be in force in 2012 is wrong. Further, prior to 2009, these posts were Gp C posts. As such, reservation in promotion was applicable in the LDCE for the year 2004. The Respondent did not submit any documentary evidence to show that they had provided the reservation in LDCE 2004.

5.5 Furthermore, the contention of the Respondent that the the first two reserved points have to be reserved for VH and HH respectively is also based on a flawed understanding that the reservation has to be followed in the exact sequence in which the categories have been mentioned in Section 34 of the RPwD Act or in DoPT instructions. The provisions are quoted hereunder:

**RPwD Act, 2016**

***"34. Reservation.—(1) Every appropriate Government shall appoint in every Government establishment, not less than four percent of the total number of vacancies in the cadre strength in***



*each group of posts meant to be filled with persons with benchmark disabilities of which, one percent each shall be reserved for persons with benchmark disabilities under clauses (a), (b) and (c) and one percent for persons with benchmark disabilities under clauses (d) and (e), namely:—*

*(a) blindness and low vision;*

*(b) deaf and hard of hearing;*

*(c) locomotor disability including cerebral palsy, leprosy cured, dwarfism, acid attack victims and muscular dystrophy;*

*(d) autism, intellectual disability, specific learning disability and mental illness;*

*(e) multiple disabilities from amongst persons under clauses (a) to (d) including deaf-blindness in the posts identified for each disabilities:*

*Provided that the reservation in promotion shall be **in accordance with such instructions** as are issued by the appropriate Government from time to time..."*

### **DOPT Instruction OM Dated 17.05.2022**

*"10.3 Points 1, 26, 51 and 76 of the roster shall be earmarked for PwBDs - **one point each** for category under (a), (b), (c) of Para 2.2 above, respectively, and one point for category (d) and (e) conjointly. The Head of the establishment shall ensure that vacancies identified at Sl. No.1, 26, 51 and 76 are earmarked for the respective categories of the PwBD. However, the Head of the Department shall decide the placement of the selected candidate in the roster/ register. In other words, the category to be appointed first will be decided by the Head of the Department based on the functional requirement."*

5.6 It can be seen from the statutory provisions and the instruction quoted above that "one point each" and not the specific point numbers have been earmarked to be reserved for a particular type of disability. The instruction further leaves the discretion to decide the category for specific points with the Head of the Department. In matters of promotion, when the availability of a candidate is quite apparent, it is not understood why the HoD will reserve a vacancy for a category from where it does not have any candidate in the feeder

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grade and keep the reserved vacancies unfilled for one year.

5.7 In view of the above, this Court is of the opinion that the Respondent has erred in implementing the policy of reservation in promotion for persons with disabilities and accordingly, it directs the Respondent to reconsider the cases of the complainants in the light of provisions of DOP&T and grant the benefit of reservations in promotion. It is, however, clarified that the arguments of the complainants that reservation in promotions should have been continued in the post of Assistant and Head Clerks even after they were classified as Group B and before the issue of OM dated 17.05.2022 when such reservation was only available upto Gp C posts on the ground that there was no functional change involved, can not be accepted.

5.8 Respondent is directed to submit the Compliance Report of this Order 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 the issue will be reported to the Parliament in accordance with Section 78 of Rights of Persons with Disabilities Act, 2016.

5.9 Accordingly the case is disposed of.

**Signed by Rajesh Aggarwal**

**Date: 13-12-2023 15:12:10**

**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: 14035/1022/2023**

### Complainant

Shri Lokender Singh Rajawat  
R/o. 640, Ward No. 14, Lahar  
Bhikampura Road, Nearby  
Ashok School, Bhind, MP-477445  
Mobile No. 9754100588  
Email ID : [lokendrasingh0711@gmail.com](mailto:lokendrasingh0711@gmail.com)

### Respondent

The Director  
Central Farm Machinery  
Training & Testing Institute  
P.O. Tractor Nagar,  
Budni-466445 District Sehore,  
Madhya Pradesh  
Phone No: 07564-299003 & 299002, 299004  
Email : fmti-mp@nic.in

### 1. GIST OF COMPLAINT

1.1 श्री लोकेन्द्र सिंह राजावत पुत्र श्री छविनाथ सिंह राजावत जो कि अक्टूबर वर्ष 2018 से केंद्रीय कृषि मशीनरी प्रशिक्षण संस्थान बुदनी, मध्य प्रदेश में एम.टी.एस. के पद पर कार्य कर रहे हैं, का अपनी शिकायत पत्र दिनांक 13.03.2023 में कहना है कि इनका निवास स्थान इनके संस्थान से लगभग 700 किमी की दूरी पर स्थित है। इनका कहना है कि इनकी छाती से निचला हिस्सा पूरी तरह से सुन्न है, साथ ही इसमें कोई संवेदना और गति नहीं है और वह अपने नित्य कर्म के लिए किसी और पर आश्रित है। इनकी देखभाल करने के लिए उनकी माताजी जिनकी उम्र 55 वर्ष है तथा इनकी दादी जो कि 80 वर्ष की है वह उनके साथ रहती है।

1.2 आगे शिकायतकर्ता का कहना है कि उनकी बीमारी से सम्बंधित कोई अच्छा अस्पताल इस संस्थान के नजदीक नहीं है और उन्हें फिजियोथेरेपिस्ट की सलाह दी गई है परन्तु संस्थान के पास कोई सुविधा नहीं है पिछले वर्ष नौकरी के दौरान उनकी रीढ़ कि हड्डी टूट गई थी जिसका ऑपरेशन दिल्ली में हुआ था पहले से व्हीलचेयर पर होने उपर से ऑपरेशन जिसके बाद डॉक्टर ने उन्हें अपने शरीर का विशेष ख्याल रखने के लिए कहा है, किन्तु घर से बहुत दूरी होने के कारण तथा संस्थान के निकट कोई स्पाइन से सम्बंधित अस्पताल न होने एवं आवागमन कि

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उचित कनोक्टोवेटी न होने के कारण शिकायतकर्ता का वह पर नौकरी करना सभव नहीं हो पा रहा है और उन्हें बहुत मुश्किलों का सामने करना पड़ रहा है, तथा उनका कहना है कि उनका स्थानान्तरण उनके घर के नजदीक किया जाये।

## **2. SUBMISSIONS OF THE RESPONDENTS:**

2.1 On behalf of the Respondent, Shri Vijay Yadav, Administrative Officer vide letter dated 19.07.2023, submitted that Shri Lokendra Singh Rajawat, MTS (NT) had submitted a similar application for transfer to or nearby his native place to the PMO directly which was received in this office through CM-helpline Liaison Officer. The application was forwarded to the M&T Division of the Department of Agriculture & Farmers Welfare, Ministry of Agriculture and Farmers Welfare, Krishi Bhawan, New Delhi – 110001 being the Cadre Controlling Authority for further consideration of his case and taking necessary action in the matter. The Ministry disposed of the case stating that no FMTTI (Farm Machinery Training & Testing Institute) other than this Institute under the administrative control of M&T Division of the Department of Agriculture & Farmers Welfare is located near his home town.

2.2 Further, in view the medical and physical conditions and as per the instructions of the Ministry, Shri Lokendra Singh Rajawat, MTS (NT) has been entrusted with the duties of Diary & Dispatch Section, being the lightest duty as he has difficulty of long sitting at the work. The office has been giving him breaks for rest. Further, with effect from 27.04.2023, the duties of Diary & Dispatch Section has been entrusted with another staff, Shri Gurudayal Bamne MTS (NT) and Shri Lokendra Singh Rajawat is continuing to work in the Diary & Dispatch Section as an additional/supporting staff.

2.3 The Estate Section of the Institute has provided RCC Ramps at both the office where he works and his Quarter so that he can easily access into there. A western toilet along with a wall mounted supporting handle is provided at his residence for his convenience. All his medical claims have already been reimbursed as per the extant CS(MA)/CGHS rules. The office has recently reimbursed his claim for the cost of Wheel Chair (Motorized). He is also entitled for double the rate of Transportation Allowance as per the provision.

2.4 Furthermore, it is brought to your kind notice that this Institute is a Subordinate Office of the Department of Agriculture & Farmers Welfare, Ministry of Agriculture & Farmer Welfare, Krishi Bhawan New Delhi and this Ministry, being the of the Cadre Controlling Authority, deals with the Recruitment/Appointment /Posting/Transfer of the employees of the Institute and the Institute only reports the vacancies to the ministry as and when it arises.

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**3. SUBMISSIONS MADE UNDER REJOINDER:**

3.1 The reply of the Respondent was forwarded to the Complainant vide email dated 21.07.2023 for submission of rejoinder. However, no response has been received from the Complainant.

**4. Observations & Recommendations:**

4.1 Upon considering the facts of the case and submissions of the parties concerned, this Court concludes that given the recommendatory nature of the provisions of Section 20 (5) of the RPwD Act, 2016 and instructions of the government and that there is no establishment of the Respondent near the native place of the Complainant, no case of discrimination or denial of any right could be established by the Complainant.

4.1 It is, however, observed that while the subject matter of this case is posting/transfer of an employee on the ground of his disability, the Respondent has quite unnecessarily furnished details of reimbursement of medical claims and double transport allowance, which are unrelated with the issue at hand. This smacks of an attitudinal problem on the part of the Respondent indicating that they are already doing some favours to the employee. The Respondent should ensure that its employees are sensitised about the special need of a person with disability and about the concept of reasonable accommodation needed to facilitate the persons with disabilities to enjoy equal rights with others.

4.2 This case is disposed of accordingly.

**Signed by Rajesh Aggarwal****Date: 12-12-2023 17:21:32****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, New Delhi-110075; Tel.: (011) 20892364  
Email: ccpd@nic.in; Website: www.ccdisabilities.nic.in

**Case No: 13780/1023/2023**

### **Complainant:**

Dr. Swami Vivekananda. G. Harwal  
House No. LIG-112, KHB Colony  
MSK Mill Road, Shanti Nagar, KalaBuragi  
Karnataka-585103  
Mobile No: 09731180051  
Email: drvivekharwal@gmail.com

### **Respondent:**

The Director  
Employees' State Insurance Corporation,  
Headquarters, Panchdeep Bhawan,  
Comrade Inderjeet Gupta (CIG) Marg,  
New Delhi - 110002.  
Email: pg-hqrs@esic.nic.in

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

1.1 Dr. Swami Vivekananda G. Harwal, a person with 50% locomotor disability and working as an Insurance Medical Officer, Grade - 1 in the ESIC Model Hospital Rajajinagar, Bangalore, filed a complaint dated 12.02.2023 regarding harassment and degrading treatment by officials of the Respondent.

1.2 The Complainant submitted that he is suffering humiliation

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caused by the inhuman attitude of the former Deputy Director, Medical Administration, ESIC Headquarters, New Delhi, and present EV General ESIC. The Complainant while managing COVID19 patients during the pandemic had acquired COVID infection in October 2020 and was admitted. Further, he developed post-COVID avascular necrosis (AVN or BONE DEATH) of the bilateral femoral head affecting both hip joints and leading to disability. The Complainant has been facing difficulty in managing day-to-day activities including personal care. As it was difficult to manage, he requested a transfer to ESIC Medical College, Kalaburagi (his hometown) as he has family support there.

1.3 The Complainant further submitted that a representation was first submitted on 17<sup>th</sup> February 2021 and subsequently multiple representations were given at ESIC headquarters in New Delhi on 01.02.2022, 23.08.2022, and 15.12.2022 but no response was received from the ESIC Headquarters till date. The Complainant approached the DG-ESIC and explained about his work-related illness and need for family support. The same was considered and the DD office was instructed to process his representation for posting at ESIC Medical College Kalaburagi.

1.4 The Complainant further submitted that due to the delay and harassment caused by the office of DD, his dignity is affected to a large extent. The Complainant has requested this Court to intervene in this matter.

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

2.1 The Dy. Director, ESIC vide letter dated 11.04.2023 filed the reply and submitted that the representations of the Complainant were received and processed for approval of the competent authority. The Complainant requested noting sheets of the file in which his case was processed and the same were also provided by ESIC which included the comments of the Competent Authority. It is evident from the documents supplied to him that the Department has tried to consider his request but due to changes in the transfer policy, the matter could not be finalized.

2.2 The Respondent further submitted that the Annual General Transfer-2023 in ESIC is under process and the transfer case of the Complainant is to be considered on merits and as per provisions of the transfer policy by the Transfer Committee duly constituted for this purpose.

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

The Complainant submitted through his email dated 07.09.2023 that his grievances have been resolved and the case may be closed as he has been transferred to his requested ESIC Hospital, Kalaburagi on 20.05.2023.

### **4. Observation and Recommendation:**

4.1 Since the grievance of the Complainant stands redressed now as informed by the Complainant and keeping his request to close the matter in view, there is no reason for further interference by this Court in the individual grievance of the Complainant. However, the Court is inclined to draw the attention of the Respondent to the relevant provisions of the RPwD Act, the RPwD Rules, and the instructions of the central government on the issue of posting and transfer of employees with disabilities, which are reproduced as under:

#### **Section 20 (5) of the RPwD Act:**

*"(5) The appropriate Government may frame policies for posting and transfer of employees with disabilities."*

#### **Section 21 of the RPwD Act:**

**"21. Equal opportunity policy.—(1) Every establishment shall notify equal opportunity policy detailing measures proposed to be taken by it in pursuance of the provisions of this Chapter in the manner as may be prescribed by the Central Government.**

*(2) Every establishment shall register a copy of the said policy*



*with the Chief Commissioner or the State Commissioner, as the case may be."*

**Rule 8 of the RPwD Rules, 2017 prescribing the manner of preparing and notifying the Equal Opportunity Policy under Section 21 of the Act:**

**"8. Manner of publication of equal opportunity policy.-**

*(1) Every establishment shall publish equal opportunity policy for persons with disabilities.*

*(2) The establishment shall display the equal opportunity policy preferably on their website, failing which, at conspicuous places in their premises.*

*(3) The equal opportunity policy of a private establishment having twenty or more employees and the Government establishments shall inter alia, contain the following, namely:-*

*(a) facility and amenity to be provided to the persons with disabilities to enable them to effectively discharge their duties in the establishment;*

*(b) list of posts identified suitable for persons with disabilities in the establishment;*

*(c) the manner of selection of persons with disabilities for various posts, post-recruitment and pre-promotion training, **preference in transfer and posting**, special leave, preference in allotment of residential accommodation if any, and other facilities;*

*(d) provisions for assistive devices, barrier-free accessibility and other provisions for persons with disabilities;*

*(e) appointment of liaison officer by the establishment to look after the recruitment of persons with disabilities and provisions of facilities and amenities for such employees.*

*(4) The equal opportunity policy of the private establishment having less than twenty employees shall contain facilities and amenities to be provided to the persons with disabilities to enable them to effectively discharge their duties in the*

*establishment."*

**9. Para H of the DoPT OM dated 31.03.2014 Detailing Guidelines for providing certain facilities in respect of persons with disabilities who are already employed in Government for efficient performance of their duties:**

***"H. Preference in transfer/posting*** *As far as possible, the persons with disabilities may be exempted from the rotational transfer policy/transfer and be allowed to continue in the same job, where they would have achieved the desired performance. Further, preference in place of posting at the time of transfer/promotion may be given to the persons with disability subject to the administrative constraints.*

*The practice of considering choice of place of posting in case of persons with disabilities may be continued. To the extent feasible, they may be retained in the same job, where their services could be optimally utilised."*

4.2 The Respondent is directed to confirm that they have prepared, published and registered their Equal Opportunity Policy in compliance with the above statutory provisions and that the same covers reasonable accommodation to persons with disabilities in terms of choice and preference in the matter of transfer and posting and an exemption from routine and rotational transfer. The Respondent is also directed to share a copy of their Transfer Policy highlighting the provisions made therein for employees with disabilities.

4.3 The Respondent is directed to forward a Compliance/Action Taken Report on the recommendations mentioned in para 4.2 above within 3 months from the date of this Order in terms of Section 76 of the RPwD Act, 2016, failing which this Court will be constrained to inform the same as per the provisions of Section 78 of the Act. Respondent is also informed that non-furnishing information sought under the RPwD Act is a punishable offence under Section 93 of the Act.

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4.4 Accordingly, the case is disposed of with the approval of the Chief Commissioner for Persons with Disabilities.

**Signed by Praveen Prakash  
Ambashta  
Date: 17-12-2023 23:28:26  
Reason: Approved**

**(Praveen Prakash Ambashta)**  
Dy. Chief Commissioner for Persons with Disabilities



न्यायालय मुख्य आयुक्त दिव्यांगजन

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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: 13952/1022/2023**

**In the matter of:**

**Complainant:**

Shri Binod Kumar  
Rz- 490/318, Gali No. 7  
Geetanjali Park,  
West Sagarpur, New Delhi- 110046  
Mobile: 7982842264  
Email: binodkumar1074@gmail.com

**Respondents:**

The Pr. Chief Commissioner of Income-Tax  
Gujarat (CCA), Ahmedabad,  
Room No. 205, 2<sup>nd</sup> Floor,  
Aayakar Bhawan, Ashram Road,  
Ahmedabad- 380009  
Telephone: 079- 27544157  
Email: Ahmedabad.dcit.hq.pers@incometax.gov.in

The Director,  
O/o The Directorate of Income-Tax,  
Central Board of Direct Taxes, (HRD)  
Jawahar Lal Nehru Stadium, 2<sup>nd</sup> Floor,  
Lodhi Road, New Delhi- 110003,  
Phone: 011-25130578

**Date of Hearing: 14.11.2023.**

The following were present:

1 . Shri Madhurendra Jha, Adv. : on behalf of

**Complainant**

2. Shri Surajbhan Garhwal, Addl. CIT (HQ) : **Respondent**

**RECORD OF PROCEEDINGS**

During online hearing, the learned Advocate appearing for the Complainant submitted that the Complainant is a resident of Sagarpur, New Delhi and is a person with 75% Hearing Impairment. He joined the Income-Tax Department at Jamnagar in the Ahmedabad Region in the post of MTS on 28.11.2018 after serving 23 years of service in the Indian Air Force. Being a person with disabilities, dependent on his family for his day to day needs who could not stay with his family during this service in the Indian Air Force and who has a dependent mother, who is 80 years old, he wanted a transfer from his current posting at Jam Nagar, Gujarat to Delhi Region. The Respondent, however, had a policy for inter-charge transfer dated 15.02.2019, whereby any new recruit was required to complete one year of service to become eligible for transfer. Accordingly, he submitted his application for ICT on 28.11.2019.

1.2 He further submitted that his application was duly received in the O/o the Principal Chief Commissioner of Income Tax, Gujarat on 18.12.2019. There after a list of candidates for ICT transfer was published by the Respondent on 29.07.2020, wherein the name of the Complainant figured at serial number 14. After that no communication has been received regarding list of candidate whose application for ICT is pending either rejected or approved. A letter dated 22.12.2020 issued by the Directorate of Income-Tax, CBDT, New Delhi whereby the Respondent informed that the policy of Inter Charge Transfer was withdrawn and an instruction was issued to all Pr. Chief Commissioner of Income-tax in respect of New Transfer policy to be transferred on loan basis in respect of Group 'C' officials.

1.3 The learned advocate further submitted that the new policy at para 3 included a relaxation for 5 categories of employees, which included candidates recruited against the quota of persons with disabilities but were posted to a place other than the state/CCA region other than the place of his/her domicile residence and whose applications for ICT was received by 31.12.2019. The Complainant fulfilled the criteria for this relaxation but the same was not extended to him. Hence, the grievance.

2. The Respondent submitted that as per circular dated 22.12.2020, CBT withdrawn 'Inter Charge Transfer' policy and issued instructions in respect of transfer on loan basis of group 'C' officials. This application of the Complainant was in the queue at that time and after that it was closed. He also submitted that the willingness of the CCA of the Region to which the transfer is being sought is critical

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in deciding the ICT cases.

3. The Court directed the Respondent to submit the following details within 1 week from the date of proceedings:

- a. The number of requests received from person with disabilities for ICT transfers which were accepted out of the total requests received before the due date?
- b. The number of of these requests which were sent for approval to CBT Delhi and how many were accepted?
- c. The current status of candidates whose names figured in the list of 29.07.2020 as pending applications for ICT.

Signed by  
Praveen Prakash Ambashta  
Date: 15-12-2023 16:20:37

**(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  
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सामाजिक न्याय और अधिकारिता मंत्रालय/Ministry of Social Justice & Empowerment  
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20892364

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

**Case No. 14205/1024/2023**

**Complainant:**

Shri Daksha Soumya  
Asstt. Manager (Electrical)  
CPP, NALCO,  
Angul, Odisha  
Mobile-9560303275  
Email: int.deepak596@gmail.com

**Respondent:**

The Chairman and Managing Director,  
National Aluminium Company Ltd.  
NALCO Bhawan, P/1 Nayapalli  
Bhubaneswar  
Odisha- 751013  
Email: cmd@nalcoindia.co.in

**1. Gist of the Complaint:**

1.1 The Complainant, Shri Daksha Soumya, a person with 40% Locomotor disability filed a complaint dated 06.06.2023 regarding change of his work in NALCO.

1.2 The Complainant submitted that he has been working in Operation Department in NALCO in a shift and field job. The workplace environment is extreme dusty and unhealthy. It is impossible for him to

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work in such environment and requested a change.

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

The respondent submitted in their letter dated 21.07.2023 that considering the disability of the complainant, he has been placed at Electrical department in general shift and the work environment is non-hazardous.

**3. Submissions made in Rejoinder:**

The Complainant vide his email dated 31.07.2023 submitted that he has been transferred to the Electrical department and the work environment is non-hazardous. Hence his grievances have been resolved.

**4. Observations and Recommendations:**

Since the grievance of the complainant has been redressed, no further intervention is required in the matter. Accordingly, the case is being disposed of with the approval of Chief Commissioner for Persons with Disabilities.

**Signed by Praveen Prakash  
Ambashta**

**Date: 17-12-2023 23:30:24**

**Reason: Approved**

**(P. P. Ambashta)**

Dy. Chief Commissioner