

In the matter of:

Ms. Ruqaiya Naaz, C/o Shri Wasif Akhtar, Rizvi Apartment C-11, 12, Medical Road,
Aligarh-202002 (UP) **....Complainant**

Versus

Registrar, Aligarh Muslim University, Aligarh – 202001 (UP) **....Respondent**

Date of hearing: 18.09.2019

Present:

1. Ms. Ruqaiya Naaz, complainant herself
2. Mohd. Faisal Fareed, Assistant Controller for the respondent.

O R D E R

The above named applicant, a student of B.Ed. with 100% visual impairment, filed a representation dated 12.09.2018 under the Rights of Persons with Disabilities Act, 2016, hereinafter referred to as the 'Act' regarding transfer from Murshidabad to AMU Centre at Aligarh for pursuing her B.Ed. course. She submitted that she has liver problem which often compels her to consult the doctor in emergency and being a blind girl she has to face problems of mobility. The food contents provided in the hostel may aggravate her sickness. She further submitted that in this regard she had requested the authorities of Aligarh Muslim University (AMU) to transfer her from Murshidabad to AMU Campus, Aligarh but they are not ready to consider her request.

2. Under Section 75 of the Act, the matter was taken up with the respondent for submission of their comments.

3. The respondent filed its reply dated 24.11.2018 and intimated that the centres are allotted through counseling in order of merit on the basis of marks secured by the candidates in the admission test. It was also mentioned in the Guide to Admission 2018-2019 on page 6 at clause 38 that "The candidate admitted/upgraded to particular course of study either at AMU, Aligarh or any of the AMU Centres at Malappuram, Murshidabad and Kishanganj shall not be allowed to change the study centre after the closing date of Admissions." In view of the above, the request of the applicant was not considered.

4. The aforesaid reply of the respondent was sent to the applicant for submission of her rejoinder/comments.

5. The applicant in her rejoinder dated 4.01.2019 submitted that the centres – Murshidabad, Mallapuram and Kishanganj – are not facilitated for the students with disabilities and there is no facility of hospital at Murshidabad Centre. She also submitted that in the year 2016-17 one B.Ed. Student with visual impairment, namely, Sayyed Suhail Mudassir was transferred to main campus on account of having no health facilities at Kishanganj centre.

6. In reply to the rejoinder filed by the petitioner, the respondent filed their reply dated 18.06.2019 and submitted that there is no provision for transfer to AMU Main Campus. Medical facilities are provided at all centres of AMU. In addition to that the Director, Murshidabad Centre has been advised to take care of the health of the applicant Ms. Ruqaiya Naaz. Moreover, the applicant has almost completed one year period of her course. Therefore, the request of the applicant could not be entertained.

7. Upon considering the grounds of change requested by the applicant and the replies filed by the respondent, the case was listed for personal hearing on 18.09.2019.

8. After hearing both parties, there appears to be no violation of the provisions of the Act on the part of respondent. However, it is recommended that the respondent may ensure that all the centres of Aligarh Muslim University are made accessible for persons with disabilities and Medical facilities and reasonable accommodation may also be provided to the applicant and other students with disabilities.

9. The case is accordingly disposed of.

(Shakuntala D. Gamlin)
Chief Commissioner
for Persons with Disabilities

=====

Case No: 11079/1022/2019

Dated : 01.11.2019
Dispatch No.

In the matter of :

Shri Gaurav Kumar Garg,
Accounts Officer,
National Small Industries Corporation Limited (NSIC Ltd),
NTSC Complex,
Okhla Industrial Estate,
Near Govindpuri Metro Station,
New Delhi – 110 020
Email<gauravgarg@nic.co.in>

.....Complainant

Versus

National Small Industries Corporation Limited (NSIC Ltd),
(Thru Chairman-cum-Managing Director)
NSIC Bhawan,
Okhla Industrial Estate,
New Delhi - 110 020

.....Respondent

Date of hearing : 09.10.2019

Present :

1. Shri Gaurav Kumar Garg, Complainant.
2. Shri Rajesh Kumar Tripathi, GM (HR), NSIC.

ORDER

The above named complainant, a person suffering from 45% locomotor disability has filed a complaint dated 01.04.2019 under the Rights of Persons with Disabilities Act, 2016 regarding his transfer from Delhi to Kashipur Office of NSIC Limited which is near to his native place.

2. The complainant submitted that he had requested for his transfer from Howrah to his native place to DGM (HR) vide letter dated 16.12.2016. A transfer order dated 28.12.2016 was issued for his transfer from Howrah to Delhi along with TTA and joining time. On 30.12.2016, DGM (HR) issued another transfer order mentioning that he would not be entitled to TTA and joining time as the transfer was made on request. He submitted that he had never requested for his transfer to Delhi /NCR as this is not his native place. On 28.11.2018, he requested GM (HR) for his transfer from Delhi to Kashipur as Kashipur Office of NSIC Limited is near to his native place. He met the

....2/-

GM(HR) on 21.01.2019 personally for his transfer. On 22.01.2019, he raised grievance against GM(HR) before the Grievance Redressal Officer (GRO, PwDs) and requested for his posting near to his native place. On 19.02.2019, GRO issued an inter office memorandum to him. On 06.03.2019, GRO issued another Memorandum stating therein that no further representation would be considered in this regard in future.

3. The matter was taken up under Section 75(1) of the Rights of Persons with Disabilities Act, 2016 vide letter dated 29.04.2019.

4. The General Manager (HR/L&D), The National Small Industries Corporation Ltd vide letter no. SIC/PERS.I/PERS.I/29(2)/AO dated 29.05.2019 submitted that Shri Gaurav Kumar Garg, complainant, was appointed as Accounts Officer in NSIC Technical Service Centre, Howrah on 28.03.2016 under Special Recruitment Drive for pwds. He after nine months of joining Howrah Office requested vide letter dated 16.12.2016 for his transfer near to his hometown, i.e. Tehsil Chandpur, Bijnor, U.P. The nearest office of NSIC is at Kashipur, Uttarakhand, but there was no requirement of Accounts Officer at Kashipur. He submitted that the complainant should not have been transferred out of West Bengal region as he had applied and was appointed under West Bengal region. But considering his PwD status, he was transferred to NSIC Branch Office in Delhi vide order dated 28.12.2016. The complainant was not entitled to TTA and joining time as he was transferred on his own request, but considering that his request for transfer for Kashipur was not considered, he was allowed TTA and joining time. The complainant on joining at NSIC Branch Office, Delhi started giving representations for his transfer to Kashipur. He submitted that LBI Kashipur does not require the services of accounts personnel, hence Shri Gaurav Kumar Garg, AO, B.O. Delhi cannot be considered for his transfer at Kashipur.

5. The complainant vide his rejoinder dated 16.06.2019 submitted that he joined Delhi Branch of NSIC Ltd on 09.01.2017 and on 28.11.2018 he requested the General Manager (HR/L&D) for his posting at Kashipur, his native place, but till date no action has been taken on his application. He had applied for the post of Accounts Officer against an advertisement. The terms and conditions mentioned in the said advertisement included 'selected candidates shall be liable to serve the Corporation anywhere in India/abroad where the corporation may have business interest'. There is nothing mentioned in the said advertisement that the selected employee shall not be transferred out of West Bengal region. He submitted that presently NSIC Kashipur has 05

persons posted there and out of these 05 persons, 01 person namely Shri Bhuwan Chander will retire on 30.08.2019 and 02 persons namely Shri Vipin Singhal and Shri G.S. Negi are already being considered for re-deployment somewhere else by the Administration.

6. After considering Respondent's reply dated 29.05.2019 and complainant's rejoinder dated 16.06.2019, a personal hearing was scheduled on 11.09.2019. The said hearing was rescheduled for 09.10.2019 due to unavoidable circumstances vide letter dated 30.08.2019.

7. During the hearing the Complainant reiterated that he was appointed to the post of Account Officer at NSIC Technical Service Centre, Howrah, West Bengal on 28.03.2016 under Special Drive for Persons with Disabilities. Presently he is posted at NSIC, New Delhi since 09.01.2017. He is the only son of his old aged parents who are living at their native place and suffering from old age problems. In spite of repeated requests and representations, NSIC did not transfer the Complainant to the nearest place of his native place. Presently NSIC Kashipur has 05 persons posted there. Out of these 05 persons, 01 person namely Shri Bhuwan Chander will retire on 30.08.2019 and 02 persons namely Shri Vipin Singhal and Shri G.S. Negi have already been ordered for re-deployment at some other branch.

8. During the hearing the Respondent reiterated that the Complainant was appointed as Accounts Officer under 'Special Recruitment Drive for Persons with Disabilities' in the year 2015. In the said advertisement 04 vacancies of Accounts Officers were invited for West Bengal region only. The Complainant applied against the said advertisement for the post of Accounts Officer for West Bengal Region. He was appointed as Accounts Officer and joined NSIC Technical Services Centre (NTSC) Howrah (West Bengal) on 28.03.2016. After 9 months of joining, the Complainant vide his letter dated 16.12.2016 requested for transfer near to his hometown, i.e. Tehsil Chandpur, Bijnor (Dist.), Uttar Pradesh. The nearest office of NSIC is at Kashipur (Uttarakhand), but there was no requirement of Accounts Officer at Kashipur. Being a person with disability and looking at the circumstances, Shri Gaurav Kumar Garg was transferred to NSIC Branch Office, Delhi vide Order dated 28.12.2016, which is approximately 150 Kms away from his hometown. The Complainant after joining NSIC Branch Delhi started giving representations for his transfer to Kashipur.

....4/-

9. After hearing both the parties, the Court observed no merit in the complaint and no violation of any provision of Rights of Persons with Disabilities Act, 2016.

10. The complaint is disposed of without any direction to the Respondent.

(Shakuntala Doley Gamlin)
Chief Commissioner
for Persons with Disabilities

Case No: 7688/1024/2017

Dated : 27.11.2019
Dispatch

In the matter of :

Shri Gopalakrishnan Chettiar,
B-37, 1st Floor (3),
Ashiana Apartments,
Dilshad Colony,
Delhi – 110 095

.....Complainant

Versus

Ministry of Defence ,
(Thru Jt. Secretary (E) and Chief Administrative Officer),
E- Block Hutments,
Dalhousie Road,
New Delhi – 110 011

.....Respondent

Dates of Hearing : 08.11.2019 and 23.08.2019

Present on 08.11.2019:

1. Complainant – Not present.
2. Shri Pawan Kumar, Asst. Section Officer, on behalf of Respondent.

Present on 23.08.2019 :

1. Shri Gopalakrishnan Chettiar and Shri Sudarshan Rajan, Advocate.
2. Shri Mukesh Solanki, Dy. Director, DHQPO, New Delhi, for Respondent.

ORDER

The above named complainant, a person with 80.40 percent hearing impairment has filed a complaint dated 16.02.2017 under the Rights of Persons with Disabilities Act, 2016 regarding denial of family pension to his son Shri Shivraj, a person with 80.2% speech and hearing impairment after the death of pensioner and his wife.

2. Shri Gopalakrishnan Chettiar has submitted that he retired from the post of Group 'D' from Ministry of Defence in the year 2003. His elder son Shri Shivraj is 44 years old was born deaf. He could not succeed to get employment to his son because of his disability. His son is married to a deaf girl. They have no children. Both of them are staying with him and are also dependent on the complainant. He made a representation to his parent office to include the name of his son

....2/-

Shri Shivraj for family pension in the Pension Payment Order (PPO). The doctors at Guru Teg Bahadur Hospital in Delhi declared him as 80.4% permanent disabled. He submitted the Disability Certificate of his son in his office on 27.01.2016. On 19.09.2016, his office forwarded it to the Principal Controller of Defence Accounts (Pension), Allahabad for necessary action. His office returned his case to the complainant stating that the Disability Certificate should mention that the claimant's disease is not curable and is permanent in nature and the Disability Certificate should also state that the claimant is unable to earn his livelihood due to the stated disability and the same should be issued by the Medical Board. The Medical Supdt., Guru Teg Bahadur Hospital issued him a certificate but they mentioned in the certificate that it is not possible for them to state that the person is unable to earn his livelihood. He re-submitted the comments to his office and requested them to consider his case but he was informed vide letter dated 19.12.2016, that the certificate submitted by him was not on the desired lines as prescribed by them and as such they are not in a position to process the case further. He further submitted that in the year 2016 his office approved family pension to the disabled son of the pensioner without insisting on the certificate as asked from him.

3. The matter was taken up under Section 75(1) of the Rights of Persons with Disabilities Act, 2016 vide letter dated 22.06.2017.

4. The SAO,CAO/Pension Cell vide letter no. A/51730/Misc/CAO/Pension Cell dated 30.06.2017 has submitted that Shri Gopalakrishnan Chettiar, UDC (Retd.) is already receiving his pension vide PPO No.C/Misc/16855/2003. Now he wants to include the name of his permanently disabled son Shri Shivraj in his PPO for which the complainant has submitted an application in their office on 24.08.2015. The complainant was requested to submit the requisite documents vide their letter no. A/51730/FP/CAO/Pension Cell dated 06.11.2015. The application of the complainant was returned by PCDA (P) Allahabad vide their letter no. G-I/Civil/PO-96/XX/2016 dated 24.08.2016 with an observation that the claim should be submitted along with a medical certificate issued by a medical authority stating that the disability suffered by the claimant is not curable and is permanent in nature, and also that the claimant is unable to earn his livelihood due

....3/-

to the stated disability. Accordingly the complainant was requested vide their office letter dated 19.09.2016 to obtain the requisite medical certificate from the medical authority and to forward the same to their office for further necessary action.

5. The complainant vide his rejoinder dated 31.10.2018 has submitted that the Medical Board has clearly refused to give a certificate in writing stating that his son is unable to earn his livelihood because of his disability. In the absence of medical certificate, his office will not take any further action in the matter. He submitted that during the year 2016, his office had allowed family pension to a disabled son of a pensioner. The pensioner is Shri Natarajan. His office has not commented on the nature and circumstances under which the family pension was sanctioned to the son of Shri Natarajan. He submitted that in that case also the medical board had refused to certify that the claimant is unable to earn his livelihood due to the stated nature of disability. .

6. After considering Respondent's reply dated 30.06.2017 and complainant's rejoinder dated 31.10.2018, a personal hearing was scheduled on 23.08.2019.

7. During the hearing the Complainant reiterated that he had made a representation to his Office for inclusion of his son, Shri Shivraj's name in the Pension Payment Order (PPO) for family pension. The Medical Supdt., Guru Teg Bahadur Hospital issued him a certificate mentioning that it is not possible for them to state that complainant's son is unable to earn his livelihood. His office informed the complainant that the certificate submitted by him was not on the desired lines as prescribed by them and as such they are not in a position to process the case further.

8. The representative of Respondent submitted that the complainant could not submit a livelihood certificate of his son and in the absence of it, the inclusion of name of his son in PPO cannot be processed further.

9. The Court advised the Complainant to obtain the livelihood certificate for his son Shri Shivraj from an authorised Government Hospital for claiming the benefits for his son.

10. The Court scheduled the next hearing on 11.10.2019 Hrs which was re-scheduled for 08.11.2019 vide letter dated 09.10.2019. In the meantime, complainant vide his letter dated 01.10.2019 submitted his willingness to withdraw the complaint which was received on 17.10.2019.

11. Since the personal hearing was already scheduled, therefore, request to withdraw the case was placed during the hearing on 08.11.2019. The willingness of the complaint to withdraw the case was considered and the case was treated as withdrawn.

12. The case is disposed of as withdrawn.

(Shakuntala Doley Gamlin)
Chief Commissioner
for Persons with Disabilities

Case No: 10209/1021/2018

Dated : 22.11.2019
Dispatch No.

In the matter of :

Shri Mukesh Kumar,
Assistant Director (IT),
National Power Training Institute,
NPTI Complex,
Sector -33,
Faridabad,
Haryana – 121 003
Email<mukesh.npti@gov.in>

...Complainant

Versus

National Power Training Institute,
(Thru Director General),
NPTI Complex,
Sector -33,
Faridabad,
Haryana – 121 003

...Respondent

Dates of Hearing : 08.11.2019 and 27.09.2019

Present on 08.11.2019 :

1. Shri Mukesh Kumar, Complainant.
2. Shri N.V. Kumar, Director (Fin. & Admn.), and Shri A.K. Malik, Dy. Director (Admn.), on behalf of Respondent.

Present on 27.09.2019 :

3. Shri Mukesh Kumar, Complainant.
4. Shri N.V. Kumar, Director (Fin. & Admn.), on behalf of Respondent.

ORDER

The above named complainant, a person with 70% locomotor disability has filed a complaint under the Rights of Persons with Disabilities Act, 2016 regarding denial of promotion from the post of Assistant Director to Deputy Director with all consequential benefits since the date of advertisement for direct recruitments/s.

2. Shri Mukesh Kumar submitted that he joined the National Power Training Institute, Faridabad as Assistant Director on 01.03.2007. He was eligible for promotion to the post of Deputy Director on 28.02.2012 after completion of five years. But unfortunately even after completion of more than

....2/-

11 years, he was not promoted to the post of Dy. Director. He further submitted that in contemptuous violation to the Recruitment Rules, NPTI Administration had resorted to Direct Recruitment of Dy. Director not only in December 2012 but repeated the offence in August 2013 too. It is also on record that Ministry of Power has averred that the entire process of Direct Recruitment to all posts of NPTI shall remain on hold including the cases which have already been advertised/under process. He further submitted that due to indirect support of NPTI Authority, one of the candidates namely Shri Gantayat who had an order from Cuttack Bench of CAT was seeking a direction to the NPTI to allow him to join NPTI in the post of Deputy Director in pursuant to Recruitment Advertisement dated December 2012 and who with an experience of only 5 years will be joining as Deputy Director whereas the complainant who has put in 11 years of service will be working as Assistant Director and junior to Shri Gantayat. There is no reservation for persons with disabilities even in Direct Recruitment. The Complainant has requested this Court to consider his case for promotion and promote him since the date of advertisement of direct recruitment/s with all consequential benefits against the available vacancies that have earlier been mischievously advertised as direct recruitment.

2. The matter was taken up under Section 75(1) of the Rights of Persons with Disabilities Act, 2016 vide letter dated 24.09.2018.

3. The Principal Director, National Power Training Institute vide letter no. 4(A)/228/2007/NPTI/HQ/3408-09 dated 31.10.2018 submitted that 18 Assistant Directors (Tech./Faculty) including the complainant had joined NPTI from March 2007 to Nov. 2007 against Direct Recruitment vacancies. As per Recruitment Rules of NPTI they became eligible for promotion to the grade of Dy. Director (Tech./Faculty) after completing 05 years of service in the grade of Asstt. Director (Tech./Faculty) subject to availability of vacancy and other conditions like crucial date of eligibility, clearance from vigilance angle etc. The Recruitment Rules of NPTI, the method of recruitment to the post of Dy. Director (Tech./Faculty) is by promotion failing which by deputation/transfer failing both by direct recruitment(including short – term contract). As per seniority list of Asstt. Direct (Tech/Faculty), only 03 Asstt. Directors were fulfilling the eligibility criteria of 05 years of regular service in the grade of Asstt. Director (Tech/Faculty) as on 1.1.2011 against 09 vacancies. Out of the 03 Asstt. Directors eligible for promotion to the post of Dy. Director, only 02 officers were found 'fit' for promotion and were given promotion to the post of Dy. Director (Tech./Faculty). One officer was found unfit on account of his ACRs being below benchmark. In addition to the above 03 Officers, there were 18 Officers

...3/-

(including the complainant) in the feeder grade of Asstt. Director (Tech./Faculty) who had joined NPTI from March 2007 to Nov. 2007 against Director Recruitment vacancies. Since the decision on the below benchmark grading of CRs was taking considerable time and also none of the Asstt. Directors who joined during 2007 were eligible for promotion, a view was taken that the vacancies may be advertised to save time and therefore, an advertisement for filling up of 09 posts of Dy. Director (Tech./Faculty) on deputation basis was released during April 2012. A view was also taken that filling up vacancies on deputation basis would be taken only after DPC meeting is convened to consider the cases of promotion to the grade of Dy. Director. However, based on the applications received, it was found that no applicant who had applied for deputation basis was meeting the eligibility requirements, hence could not be filled up. He submitted that Ministry of Power informed vide letter dated 26.04.2012 that vacancies not filled for one year shall be considered as 'deemed-abolished'. Accordingly, 02 posts became more than one year old and fell under deemed abolished category and there were 07 vacancies of Dy. Director (Tech./Faculty) to be filled up during 2011-12. Two Asstt. Directors were promoted in the DPC convened on 22.10.2012. Thus for the balance 05 posts of Dy. Directors, as there was no other candidates in the feeder grade of Asstt. Director, fulfilling the eligibility criteria on account of service length on the crucial date of eligibility available for promotion and non of the candidates who applied for the post for appointment on deputation basis as found eligible, an advertisement inviting applications for filling up of 05 posts of Dy. Director was published in National dailies / Employment News on 27.10.2012 and 6.11.2012 respectively. The Selection Committee at its meeting held on 23.02.2013 had recommended the names of six candidates under unreserved category for inclusion in the Select Panel for appointment to the 04 posts of Dy. Director. None of the candidates belonging to OBC category appeared for interview. Out of 04 candidates selected in Feb. 2013 only 03 candidates have joined the post of Dy. Director. In respect of 01 candidate, only preliminary offer letter dated 30.09.2013 was issued asking for Medical Fitness Certificate and formats for Police verification.

During the year 2013, 10 vacancies of Dy. Directors had arisen. As per seniority list of Asstt. Director (Tech/Faculty), there was only 01 officer who was meeting the eligibility criteria of 05 years' regular service in the grade of Asstt. Director (Tech/Faculty) as on 1.1.2012 against 10 vacancies. In addition to the above 01 officer, there were 18 officers in the feeder grade of Asstt. Director (Tech/Faculty) who had joined NPTI from March 2007 to Nov. 2007 against direct Recruitment vacancies. None of these 18 Asstt. Directors (Tech/Faculty) who had joined during 2007 were fulfilling eligibility criteria of 05 years service in the feeder grade of Asst. Director (Tech./Faculty) as on 01.01.2012. An advertisement for filling up 10 vacancies of Dy. Directors either through deputation or

....4/-

by Direct Recruitment basis was released. In response applications from 120 candidates were received. The candidates who had applied for deputation were not found meeting the eligibility requirements. A criteria for short-listing the candidates to be called for interview for the post of Deputy Director (Tech/Faculty) on direct recruitment basis was adopted by NPTI. After scrutinizing the applications received, it was found that no applicant belonging to Scheduled Tribe category was found meeting the eligibility requirement and therefore, they decided to fill up 09 posts on direct recruitment basis. A total of 46 shortlisted candidates were called for interview on 09th & 10th Dec. 2013. Out of which 38 candidates appeared for interview. Based on the interview, 09 candidates were selected for the post of Dy. Director (Tech./Faculty) on Direct Recruitment basis and preliminary offer letters were issued on 30.12.2013. But due to hold put on direct recruitment process by the Ministry of Power, confirmed appointment letters in respect of these 09 selected candidates have not been issued and now all these 09 posts fall under 'deemed abolished' category. During the month of February 2014, 11 Asstt. Directors (Tech/Faculty) including the Complainant filed an Original Application (OA) No.820 of 2014 in the Hon'ble Central Administrative Tribunal (Principal Bench), New Delhi wherein besides other prayers, relief for the following was prayed:

- i) The direct recruitment of the external candidates be quashed with respect to the advt. dated 23.08.2013 for 10 posts of Deputy Director in NPTI as the candidates were not only junior to the applicants but also less experienced than the applicants.
- ii) The Respondents be directed to maintain status quo with respect to the joining process in pursuance of advertisement dated 23.08.2013 for the 10 posts of Deputy Director of NPTI.
- iii) The respondents be directed to stop any further appointments or advertisement for recruitment to all posts by direct recruitment till the pendency of the present OA.

In the instance case, the seniority list of the complainant in the post of Assistant Director (Tech/Faculty) as on 31.03.2018 is at Serial no. 16. The Respondent submitted that he will be considered for promotion along with other eligible officers in the feeder grade based on the availability of vacancies of Dy. Director (Tech./faculty).

4. The complainant vide his rejoinder dated 05.07.2019 has submitted that his batchmates are now being promoted and he is still serving in the entry level. He submitted that he is not asking for promotion from the current date, rather he is pressing for his retrospective promotion w.e.f. 28.02.2012 to undo a decade of injustice suffered by him. He submitted that he joined NPTI as Assistant Director on 01.03.2007 and became eligible for promotion to the post of Deputy Director on 28.02.2012 after

....5/-

completing 05 years of his regular service. But he submitted that even after completion of more than 12 years of dedicated service at NPTI, he was not promoted to the post of Dy. Director till date. He submitted that he is still waiting for his first promotion after completing more than 12 years in the post of Asstt. Director. The complainant has prayed for the following ; -

- i) To instruct NPTI Authority to consider his case for promotion and promote him since the date of advertisement of direct recruitment/s with all consequential benefits, against the available vacancies that have earlier been mischievously advertised as recruitment.
- ii) To place all the candidates, selected by direct recruitment in Dec. 2012, below the complainant in seniority list.

5. After considering Respondent's reply dated 31.10.2018 and complainants' rejoinder dated 05.07.2019, a personal hearing was scheduled on 27.09.2019.

6. During the hearing, the complainant submitted that sufficient number of posts (about 10 nos.) of Dy. Directors are available in NPTI for promotion at present. Four posts of Deputy Directors are lying vacant. Additionally two more posts of Deputy Directors will be created against the vacant posts of Directors. Two posts of Dy. Directors are lying vacant due to retirement. As per Recruitment Rule of NPTI, the eligibility criteria for promotion to Dy. Director from Asstt. Director needs 5 years continuous service in the post of Assistant Director. The complainant has completed 12 years and 6 months of service in the post of Assistant Director. Being a person with disability, he has been deprived of promotion. The Respondent has recruited four Deputy Directors through Direct Recruitment bypassing the Recruitment Rules which was totally illegal. If the same was followed properly, he would have been promoted seven years back. He submitted that all the posts are lying vacant for the last six months and will be lapsed after six months if the same is not filled as per Government norms. Because of injustice, he is suffering from High Blood Pressure and High Blood Sugar and mental agony. He has requested to promote him as Dy. Director w.e.f. 28.02.2012.

7. The representative of Respondent submitted that the complainant joined NPTI as Assistant Director (Tech/Faculty) on direct recruitment basis on 01.03.2007. As per Recruitment Rules of NPTI, he became eligible for promotion to the grade of Deputy Director (Tech./Faculty) after completing 5 years of service in the grade of Assistant Director (Tech/Faculty) subject to availability of vacancies and other conditions like crucial date of eligibility, clearance from vigilance angle, benchmark grading in the ACR/APAR etc. Shri Mukesh Kumar was not eligible for promotion for the vacancies arisen during

2011-12 and 2012-13 as he was not fulfilling the criteria of 5 years service on the crucial date of eligibility, i.e. 01.01.2011 and 01.01.2012. The Respondent submitted that as per seniority list of Assistant Director (Tech./Faculty) as on 31.03.2018, the position of Shri Mukesh Kumar is at Serial No. 16. During the month of October 2018, 11 Assistant Directors were promoted to the grade of Deputy Director in the order of seniority. The complainant will be considered for promotion along with other eligible officers in the feeder grade based on the availability of vacancies of Dy. Director (Tech./Faculty) subject to fulfilling of other eligibility conditions as per prevailing rules. There is no denial of promotion to Shri Mukesh Kumar, as alleged. The Respondent further submitted that Shri Mukesh Kumar has already been granted benefits of MACP (Financial upgradation) on completion of 10 years of service as per rules. Some of the Assistant Directors (including Shri Mukesh Kumar) have filed OA No. 2903 of 2018 and OA No.3220 of 2018 in the Hon'ble Central Administrative Tribunal (Principal Bench), New Delhi in the matter of Direct Recruitment to the post of Dy. Director (Tech./Faculty) in NPTI during the years 2012 and 2013 as well as consideration of their promotion from the date of Direct Recruitment with all consequential benefits which are pending for decision in the Hon'ble CAT.

8. After hearing both the Complainant and the Respondent, the Court directed the Respondent to submit the following documents:-

- (i) Year wise number of vacancies available from the year 2011 to 2019.
- (ii) Date of DPC for 5 posts and 10 posts.
- (iii) Seniority list of Asst. Directors and Deputy Directors since 2012 till date.
- (iv) Justification on recruitment of 4 Deputy Directors through direct recruitment – not on deputation- and its impact on Asst. Directors in general and the Complainant as a person with disability in particular.

9. The next hearing was scheduled on 08.11.2019 at 11:00 Hrs.

10. During the hearing the complainant reiterated that he was eligible for promotion to the post of Deputy Director on 28.02.2012 after completion of five years. He was not promoted to the post of Deputy Director till date. He submitted that as per NPTI letter dated 06.11.2019, there are six vacant posts of Deputy Directors lying vacant at present. Therefore, he may be promoted to the post of Deputy Director because he is in the seniority list of 15 candidates where 11 Assistant Directors were already promoted in October 2018. He submitted that seniority should be given to him from 01.01.2013 with all consequent benefits as it was the crucial date of DPC and he has completed five years of regular service

....7/-

on 28.02.2012 according to NPTI Recruitment Rules. He submitted that the action taken by NPTI for filling 10 post through Direct Recruitment were illegal which were against the Recruitment Rules of NPTI and the same was observed under the finding of Chairman, Governing Council, NPTI, i.e. Secretary, Power, Government of India and successfully put on hold all the recruitment process till date due to violation of existing norms of NPTI and all posts were declared as deemed abolished by NPTI.

11. The Respondent vide their written submissions dated 06.11.2019 has submitted the year wise number of vacancies available from the year 2011 to 2019 and their Remarks:

Year	No. of vacancies	Remarks
2011-12	09	<p>Against 09 vacancies, only 03 Officers in the feeder grade were eligible for consideration for promotion. Out of these 03 Officers, 02 Officers were recommended for promotion and 01 Officer was found unfit by DPC held on 22.10.2012. Accordingly 02 vacancies were filled up by promotion.</p> <p>02 vacancies fallen under deemed abolished category.</p> <p>05 vacancies notified for filling up on direct recruitment basis as no applicant who had applied for deputation basis was meeting the eligibility requirements.</p> <p>Out of 05 vacancies, 04 vacancies was filled up by direct recruitment basis.</p> <p>01 vacancy reserved for OBC could not be filled up as the candidate called for interview had not attended the interview. The vacancy falls under deemed abolished category.</p>
2012-13	10	<p>Against 10 vacancies, only 01 Officer in the feeder grade was eligible for consideration for promotion. However, he was not found 'Fit' for promotion by the DPC held on 27.11.2013.</p> <p>Vacancy Notice dated 23.08.2013 inviting applications for recruitment of 10 posts of Deputy Director (Tech./Faculty) on deputation/transfer (including short-term contract) /Direct Recruitment basis was issued.</p> <p>The candidates who had applied on 'deputation basis' were not found meeting the eligibility requirements.</p> <p>09 candidates selected for direct recruitment and preliminary offer letter were issued in Dec. 2013. However, during the process of completion of pre-recruitment formalities, Ministry of Power imposed ban on direct recruitment process for various posts in NPTI. Hence final offer of appointment letters could not be issued to the selected candidates and vacancies has fallen under deemed abolished category.</p> <p>01 vacancy (reserved for ST category) could not be filled up as no applicant belonging to Scheduled Tribe category was found meeting the eligibility requirement and fallen under deemed abolished category.</p>

2013-14	16 Associate Professor	<p>Ministry of Power vide their letter No.7/1/2008-T&R dated 30.07.2013 conveyed approval of Govt. of India to adopt and implement All India Council for Technical Education (AICTE) pay scales, service conditions and qualifications for the teachers / faculty with effect from the date of the approval of the Government, i.e. 04.06.2013. All the posts of Dy. Directors (Tech./Faculty) in NPTI were converted and re-designated as Associate Professor under AICTE norms. The existing Teachers/Faculty given fitment as per AICTE norms based on qualification possessed by them. The complainant also opted for AICTE norms and Pay Scales and he was designated as Assistant Professor in PB of Rs.15600-39100+6000 Academic Grade Pay in Management Stream with effect from 04.06.2013.</p> <p>The vacancies occurred during the year 2013-14 and after 04.06.2013 were required to be filled up based on AICTE prescribed qualifications. Accordingly, 16 vacancies of Associate Professor to be filled as per up as per AICTE norms on direct recruitment basis, were notified on 26.12.2013. AICTE norms prescribed minimum Ph.D qualification for the post of Associate Professor.</p> <p>Ministry of Power vide letter No. 12/55/2013-T&R dated 04.03.2014 requested DG, NPTI to put on hold the process of selection of Deputy Director/Associate Professor on direct recruitment basis. This matter also came up for discussions during 32rd meeting of Governing Council, NPTI held on 25.03.2014 wherein, it was decided that in future, no recruitment of Teachers/faculty/non-technical posts should be initiated/made without prior approval of the Governing Council/Ministry of Power. Further, Ministry of Power vide their letter No. 7/6/2014-T&R dated 16.05.2014 reiterated that entire process of direct recruitment to all posts in NPTI should remain on hold, including the cases which have already been advertised/under process. Accordingly, the entire process of direct recruitment to various posts in NPTI was put on hold. The ban imposed by Ministry of Power on direct recruitment process is still in force and the vacancies could not be filled up and the same were later on fallen under deemed abolished category.</p>
2014-15	01	Could not be filled up due to above and fallen under deemed abolished category.
2015-16	Nil	--
2016-17	Nil	--
2017-18	01	<p>Ministry of Power vide letter No. 31-7/5/2017-T&R dated 14.11.2017 conveyed approval of the competent authority for implementation of the following with immediate effect :-</p> <ol style="list-style-type: none"> (1) Withdrawal of AICTE Pay Scales and Norms in respect of Teachers/Faculty of NPTI and restoration o faculty cadre, pay scales, norms and seniority to its original status as on 03.06.2013, and (2) Retiring the faculty retained beyond the age of sixty years as per AICTE Norms. <p>Consequent upon the above, the faculty cadre, pay scales, norms and seniority to its original status as on 3.6.2013 were restored and seniority list of faculty members were updated as on 30.11.2017.</p> <p>01 vacancy arisen in the grade of Dy. Director was filled up by promotion.</p>

2018-19	14	10 vacancies arisen were filled up by promotion. 04 vacancies (newly created posts on 7.3.2019) – are to be filled up
2019-20	02	02 vacancies arisen are to be filled up

As on date, there are 06 vacant posts of Dy. Directors (Tech./Faculty) and action to fill the same as per Recruitment Rules of NPTI is being taken.

12. During the hearing the Respondent submitted that they are going to conduct DPC within a period of one month for promotion to the post of Deputy Director and the complainant is also under the consideration zone. Keeping in view the submission of the Respondent, the Court recommends that the Respondent should complete this exercise at the earliest and apprise the Court accordingly. While conducting the DPC, Respondent should take care of the provisions of the Rights of Persons with Disabilities Act, 2016 in particular Section 20 so as to avoid any perceived discrimination on the ground of disability.

13. The case is disposed of.

(Shakuntala Doley Gamlin)
Chief Commissioner
for Persons with Disabilities

Case No: 8977/1021/2017

Dated : 22.11.2019
Dispatch No.

In the matter of :

Smt. Shivani Singhal,
H.No.1/318, Sadar Bazar,
Delhi Cantt.,
New Delhi – 110 010.

.....Complainant

Versus

Directorate General of Health Services (CGHS),
Ministry of Health & Family Welfare,
(MH II Section)
Nirman Bhawan,
Maulana Azad Road,
New Delhi – 110 011

.....Respondent

Date of Hearing : 16.10.2019

Present :

1. Smt. Shivani Singhal, Complainant.
2. Dr. Charan Singh, Director, Ministry of Health & Family Welfare, on behalf of Respondent

ORDER

The above named complainant, a person with 60% locomotor disability has filed a complaint dated 04.12.2017 under the Rights of Persons with Disabilities Act, 2016, against denial of promotion to the post of Lady Health Visitor (L.H.V) on the basis of her disability.

2. Ms. Shivani Singhal, complainant, has submitted that she is working as Auxiliary Nurse Midwife (A.N.M) in the R.H.T.C, Najafgarh, Delhi. She had requested Director, Rural Health Training Centre (RHTC) vide application dated 13.07.2017 for her promotion to the post of Lady Health Visitor (L.H.V.) under PH quota, but no action has been taken by her establishment on her application. She has submitted that establishment has denied her promotion to the post of L.H.V.on the basis of her disability. She further submitted that till date no employees with disabilities have been promoted by R.H.T.C. Najafgarh under PH quota.

3. The matter was taken up with the Respondent under Section 75(1) of the Rights of Persons with Disabilities Act, 2016 vide letter dated 04.06.2018.

...2/-

4. The Deputy Director (MH), Ministry of Health & Family Welfare, DGHS vide letter no. 18018/04/2018-MH.II dated 13.08.2018 has submitted that Smt. Shivani Singhal was appointed as Auxiliary Nurse Midwife (ANM) in their Centre w.e.f. 31.10.2008 against PH post under DR Quota. As per Recruitment Rules for the post of LHV, there are 12 sanctioned posts of Lady Health Visitor in Rural Health Training Centre (RHTC), Najafgarh. 50% (06) posts are DR Quota and 50% (06) for promotion from ANM who have successfully completed LHV promotional training. Smt. Shivani Singhal made a representation dated 13.07.2017 after her promotional training of Lady Health Visitor whereas there were already 07 numbers of ANM very senior to her. RHTC, Najafgarh has been maintaining the Reservation Roster for persons with disabilities and as per the Roster upto 26 points have so far been filled up since 1996 by promotion from ANM.

5. The complainant vide her rejoinder dated 04.10.2017 submitted that the Respondent has not informed in their reply dated 13.08.2018 whether any employee with disability category has been promoted in the above mentioned 26 points since 1996 by promotion from ANM. She submitted that employee like her are being deprived / debarred to achieve any promotional opportunity throughout the career.

6. After considering Respondent's reply dated 13.08.2018 and complainant's rejoinder dated 04.10.2018, a personal hearing was scheduled on 26.06.2019. The said hearing was rescheduled to 04.09.2019 vide letter dated 16.07.2019 and then to 16.10.2019 vide letter dated 29.08.2019.

7. During the hearing the complainant submitted that she has been working as Auxiliary Nurse Midwife (A.N.M) in the R.H.T.C, Najafgarh, Delhi. Her establishment has denied her promotion to the post of Lady Health Visitor (L.H.V.) on the basis of her disability. She submitted that till date no employee with disability has been promoted by R.H.T.C. Najafgarh under PH quota and she feels being discriminated.

8. During the hearing the representative of Respondent reiterated that there are 12 sanctioned posts of Lady Health Visitor in Rural Health Training Centre (RHTC), Najafgarh. 50% (6) posts are under DR Quota and 50% (6) for promotion from ANM who have successfully completed LHV promotional training. There were already 07 numbers of ANM very senior to her. RHTC, Najafgarh has been maintaining Reservation Roster for persons with disabilities. However, the Respondent submitted that the complainant has to wait for some more time and assured her that the complainant would be promoted to the next post when her turn comes in the seniority list.

9. The Court observed that for the post of Lady Health Visitor, the officials of Nursing cadre are eligible. Thus nursing cadre can be construed as one of the feeder cadre for the post of Lady Health Visitor. As per Note 4 of the notification issued by the Ministry of Social Justice and Empowerment on 29.07.2013 regarding identification of posts for persons with disabilities, if the post in a feeder cadre is identified suitable for a particular category of persons with disabilities, all the posts in a promotion hierarchy stands identified for those categories of persons with disabilities. Thus in the instant case the complainant should have been considered suitable for the post of Lady Health Visitor. The Court recommends that the Respondent may re-consider the case of the complainant for the promotion to the post of Lady Health Visitor.

(Shakuntala Doley Gamlin)
Chief Commissioner
for Persons with Disabilities

Case No: 4185/1024/2015

Dated : 22.11.2019
Dispatch No.

In the matter of :

Shri Suresh Kumar,
Trolleyman,
Office of AEN,
South East Central Railway,
Nainpur,
Pratapnagar,
Ward No.6,
Dist. Mandla,
Madhya Pradesh – 481 776
Email<manoj.k.jhariya@gmailcom.

.....Complainant

Versus

South East Central Railway,
(Through General Manager)
Bilaspur,
Chhattisgarh – 495 004

.....Respondent

Dates of Hearing : 16.10.2019 and 18.06.2019

Present on 16.10.2019:

1. Shri Manoj Kumar Jhariya, son of the Complainant,
- 2, Shri Neeraj Anand, APO/Nagpur/SE CR and Dr. Ravi Teja Naik, ADMO/SECR/NIR, - On behalf of Respondent.

Present on 18.06.2019:

1. Shri Manoj Kumar Jhariya, son of the Complainant,
- 2, Respondent – Not present.

ORDER

The above named complainant, a person with disability has filed a complaint dated 14.04.2015 under the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 against forcefully discharging him from service and not extending service benefit of compassionate appointment of his son.

2. Shri Suresh Kumar has submitted that while he was working as Trolleyman in the Office of Assistant Divisional Engineer, South East Railway, Nainpur, Mandhya Pradesh, he suffered from a paralytic attack on 21.07.2014 under the Nagpur Division of South East Central Railway. He rushed to a private hospital for treatment and thereafter to Nagpur for his further treatment till 02.08.2014. He was enlisted under sick and was forcibly discharged from service on 28.08.2014.

....2/-

He was deemed to have been superannuated on 31.08.2014. He further submitted that the Railway authorities did not declare him as unfit for Railway service since he became permanently disabled. His contention is that had he been declared unfit for further service, he could have benefited for compassionate appointment of his son.

3. The matter was taken up with the Respondent under Section 59 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 vide letter dated 21.05.2015.

4. The Dy. Chief Personnel Officer (RR), South East Central Railway vide letter no. P/HQ/RCT/208/533/Misc/1305 dated 30.06.2015 has submitted that Shri Suresh Kumar is an Ex-Trolleyman and was working under ADEN/Nainpur of Nagpur Division. He was a patient of HTN/CVA with sudden loss of power on left half of body and unable to speak since 25.07.2014. He was admitted to Care Hospital, Nagpur for treatment w.e.f. 26.07.2014. As per records, he was under sick list from 26.07.2014 to 31.08.2014. He submitted that the complainant was not injured while on duty and hence the question of treating him as injured on duty does not arise. He was under treatment for improvement in his medical condition and he could not join his duty till 31.08.2014, i.e. his date of superannuation. Therefore, he submitted that the request of the complainant for employment of his son on compassionate ground had not been considered by the Nagpur Division. A copy of respondent's reply dated 30.06.2015 has been sent to the complainant for his comments vide this Court's letter dated 31.08.2015.

5. The complainant vide his rejoinder submitted that the Respondent furnished the reply arbitrarily and illegally without enquiring into the matter seriously. He submitted that he is bed ridden and his brain does not function properly. The respondent's statement that the complainant was not on duty during the paralytic attack is not true but the truth is that he was performing his duty. In fact he was ill and got the treatment from a local private Doctor at Nainpur from 20.07.2014 and the treatment continued for few more days. He submitted that when he attended the office on 21.04.2014 till first half of the office hours, he worked without any problem, but later on he could not work properly and was shifted to the private hospital in emergency. As the condition started deteriorating, he was referred to the CARE Hospital, Nagpur by the Railway Medical Authority, Nainpur on 26.07.2014 where he remained under treatment from 26.07.2014 to 02.08.2014. Thereafter, he was under Railway Medical Sick (treatment) till his retirement. The Railways should have formed a medical board for declaring him unfit for the services before his superannuation, i.e. 31.08.2014. Thus due to their negligence, his son could not get appointment on compassionate ground.

6. After considering Respondent's replies dated 30.06.2015 and complainant's rejoinder, a personal hearing was scheduled on 18.06.2019.

7. The hearing scheduled on 18.06.2019 could not be held due to unavoidable circumstance and the next hearing was fixed for 04.09.2019 at 11:30 Hrs. The said hearing was again re-scheduled to 16.10.2019.

8. During the hearing the complainant reiterated that he was on duty when he had a paralytic attack. In fact he was ill and got the treatment from the local private Doctor at Nainpur but later on he was shifted to the private hospital in emergency. As the condition was started deteriorating, he was referred to the CARE Hospital, Nagpur by the Railway Medical Authority, Nainpur on 26.07.2014 where he remained under treatment from 26.07.2014 to 02.08.2014. He was under Railway Medical Sick (treatment) till his retirement. The Railways should have formed a medical board for declaring him unfit for the services before his superannuation, i.e. 31.08.2014. Thus due to their negligence, his son could not get appointment on compassionate ground.

9. The representative of Respondent reiterated that the complainant was not injured while on duty and hence the question of treating him as injured on duty does not arise. He was under treatment due to his medical condition and he could not join his duty till 31.08.2014, i.e. his date of superannuation. Therefore, he submitted that the request of the complainant for employment assistance on compassionate ground has not been considered by the Nagpur Division.

10. After hearing both the complainant and Respondent the Court observed no violation of the provisions of Rights of Persons with Disabilities Act, 2016.

11. The complaint is disposed of.

(Shakuntala Doley Gamlin)
Chief Commissioner
for Persons with Disabilities

Case No: 9645/1023/2018

Dated :22.11.2019
Dispatch No.

In the matter of :

Shri Umed Singh,
548-B, Rishi Nagar,
Shakoor Basti,
Delhi – 110 034

.....Complainant

Versus

NBCC India Limited,
(Thru Chairman cum Managing Director),
NBCC Bhawan,
Lodhi Road,
New Delhi - 110003

.....Respondent

Date of Hearing : 09.10.2019

Present :

1. The complainant - Absent
2. Shri Ajay pandey, Dy. Manager (Law), on behalf of Respondent.

ORDER

The above named complainant, a person suffering from 45% locomotor disability has filed a complaint dated 11.04.2018 under the Rights of Persons with Disabilities Act, 2016 against denial of benefits of reservation to him after acquiring disability during service.

2. Shri Umed Singh joined NBCC in the year 1985 on Muster Roll. His services were regularised in the year 1991. During service, while he was operating Mixer Machine, he met with an accident on 04.01.1996 and lost his thumb alongwith one finger of right hand. He submitted that he was entitled to perks at 50% but NBCC paid him perks @ 40% during the period from 10.06.2009 to 04.08.2013. NBCC enhanced the perks to him from 40% to 50% w.e.f. 05.08.2013 vide their Corrigendum dated 28.07.2017 and the enhanced perks were being deducted from his salary bill every month on account of medical premium which means there is no benefit to the complainant with respect to the enhanced perks from 40% to 50%. He submitted that NBCC has not paid him 10% difference in perks to him during the period from 10.06.2009 to 04.08.2013. He made a representation to his establishment to implement the DoP&T O.M. No. 36035/3/2009-Estt.(Res) dated 10.06.2009 and pay him 10% differences of perks pertaining to the period 10.06.2009 to 04.08.2013.

....2/-

3. The matter was taken up under Section 75(1) of the Rights of Persons with Disabilities Act, 2016 vide letter dated 28.09.2018.

4. The Chief General Manager (HRM), NBCC (India) Ltd vide letter dated 21.12.2018 has submitted that Shri Umed Singh vide his various representations has repeatedly requested for benefit of reservation as a person with disability and 10% additional perks for the period from 10.06.2009 to 04.08.2013. With regard to promotion of the complainant, he submitted that he was promoted in the Department Promotion Committee (DPC) of 2011-12 by giving him the benefit of reservation on promotion under person with disability category vide Office Order No. 675/2013 dated 04.05.2013 effective from 01.04.2012. In future, he would be benefited of reservation on promotion under persons with disability category after acquiring the required eligibility for promotion as per rule of their company. With regard to the benefit of 10% in perks to a person with disability, he submitted that the complainant has already been given additional benefit of 10% in perks as additional transport allowance since 05.08.2013 vide corrigendum dated 28.07.2017. With regard to the additional benefit of 10% in perks to the complainant during the period from 10.06.2009 to 04.08.2013, he submitted that as per Office Memorandum of Ministry of Heavy Industries and Public Enterprises, during this period additional benefit of 10% in perks is applicable to only those PwD employees who are blind or Orthopedically handicapped with disability of lower limbs. With regard to the medical premium deducted from the salary of the complainant, the Respondent submitted that minimum medical premium is deducted from the salary of all those regular employees who have voluntarily opted the benefits of NBCC Group Medical Insurance Scheme which is a scheme applicable to eligible serving employees. Shri Umed Singh, as a regular employee of company, has voluntarily opted to be a member of the Scheme, thus the minimum medical premium applicable to him on and above the perks amount (maximum 50% perks are to be paid as per DPE Circular of IDA 2nd Pay Revision Committee) is being deducted from his salary.

5. The complainant vide his rejoinder dated 06.02.2019 has submitted that the establishment has given a vague reply and has misinterpreted the circulars issued by the Govt. of India which is completely contrary to the conditions & benefits incorporated for persons with disabilities.

6. After considering the Respondent's reply dated 21.12.2018 and the complainant's rejoinder dated 06.02.2019, a personal hearing was scheduled on 11.09.2019 and further rescheduled on 09.10.2019

7. During the hearing the Respondent submitted that the Complainant has been promoted from the post of Senior Site Attendant (SG) to the post of Construction Supervisor (GE) on 01.10.2019. Their establishment has also been paying Double Transport Allowance to the Complainant since 05.08.2013.

8. The case is disposed of without any recommendation.

(Shakuntala Doley Gamlin)
Chief Commissioner
for Persons with Disabilities

dl l a 10972@1022@2019

fnukad% 08-11-2019

ds ekeys ea %&
dɛpkjh jskw oekz
iRuh Jh iadt dɛkj eMy
xte&egpk;] ik&cfV; k
Fkkuk&l ksk; ftyk&tepl
fcgkj &811308

&oknh

cuke

dɛpkjh Hkfo'; fuf/k l xBu
%}kjk %vij dlnh; Hkfo'; fuf/k vk; ɔr½
vij dlnh; Hkfo'; fuf/k vk; ɔr dk; kȳ;
Hkfo'; fuf/k Hkou] Hkkjrh; fj toz cɔd ds ikl
vk; dj l dȳ] vkJe jkM
vgenkckn] xqtjkr&380014

&ifroknh l a 01

dɛpkjh Hkfo'; fuf/k l xBu
%dlnh; Hkfo'; fuf/k vk; ɔr½
Ekȳ; dk; kȳ;] Hkfo'; fuf/k Hkou
14 Hkhdkth dkek lȳd
ubz fnȳh

&ifroknh l a 02

l ɔokbz dh frffk% 18-09-2019

mi lFkr & Jh jskw oekz & oknh

Jh jkt dɛkj eh.kk] l gk; d ih, Q- vk; ɔr & ifroknh dh rjQ l s

vkns'k

dɛpkjh jskw oekz iRuh Jh iadt dɛkj eMy] 45 ifr"kr vflFkn0; kax us muds ifr dk
xqtjkr l s fcgkj LFkkukarj.k djokus l s l cfi/kr f"kd; r fnukad 18-02019 fn0; kax tu vf/kdkj
vf/kfu; e] 2016 ds varxh bl U; k; ky; eank; j dh A

2- ekeys dks vf/kfu; e dh /kkjk 75 ds varxh U; k; ky; ds i= fnukad 12-03-2019 }kjk ifroknh
ds l kFk mBk; k x; k A

3- ifroknh l 02 l s dkbz tokc iklr ugha gkus ds dkj .k ekeys ea fnukad 18-09-2019 ds fy,
, d 0; fDrxr l ɔokbz fu/kkȳjr dh x; h A

4- l ɔokbz ds nkȳku oknh us mȳȳkȳ[kr fd; k fd og vi uh chekj l kl ds l kFk i Vuk ea vdsȳh
jgrh gS tcf d muds ifr fn0; kax gksr gq Hkh mudk LFkkukarj.k fcgkj l s xqtjkr dj fn; k x; k A
mudk ; g Hkh dguk Fkk fd mlgkus fcgkj ea inLFkki uk gsrq vkonu fd; k Fkk yȳdu fjfDr gkus ds
ckot m mlga xqtjkr Hkst fn; k x; k A

5- ifroknh dh rjQ l s mi lFkr i frfuf/k us dgk fd oknh us Lo; a o'kz 2009 ea xqtjkr tksu ds
fy, vkonu fn; k Fkk A mudk ; g Hkh dguk Fkk fd foHkx ea dkbz vUrj kȳ; h; uhfr ugha gS ft l ds

dkj.k fcgkj ea LFkkukarj.k djuk I Hko ugha g\$ yfdu I æBu mudk LFkkukarj.k xqtjkr dsfdl h Hkh dk; kÿ; eadjus dks r\$ kj gA

6- I ukobz ds nkjku ifroknh dh rjQ I si = fnukad 09-08-2019 Hkh iLrq fd;k x;k ftl ea fuEu of.kr gA

"The Employee's Provident Fund Organization (EPFO) is the World's largest Social Security Organisation, EPFO came into existence by the enactment of Employee's Provident Fund & Miscellaneous Provision Act, 1952 by the Parliament of India. EPFO is under the administration control of the Ministry of Labor& Employment. Social Security Assistant cadre is the bulwark of the Organisation and as per the recruitment rules of Social Security Assistant, employees are recruited on Regional basis i.e. an SSA desirous of working in Gujarat region shall appear for the open competition examination from Gujarat State and then on the basis of select list of the candidates of the Gujarat State, the vacant posts of SSA shall be filled. Apparently Sh. Pankaj Kumar Mondal appeared in the open competition examination of Gujarat Region and therefore he was selected and posted in Gujarat Region. Prospects of the Career progression of the SSA cadre employees within the Region(State) only. In view of the Regional level of recruitmet in SSA cadre, the inter-state transfer in EPFO is carried out according to the policy approved by the Central Board of Trustees, the governing body of the EPFO, on the basis of available vacancy in DR cadre and the seniority of the applicants only after the Additional Central PF Commissioner of the Zone gives its due recommendations. In the instant case, the request of Sh. Pankaj Kumar Mondal was rejected by the ACC(Zonal) and hence the transfer request could not considered by the EPFO Head office."

7- I Hkh i {kka dks I pus ds ckn ifroknh dks vknf"kr fd;k tkrk g\$ fd fn0; kx tu vf/kdkj vf/kfu; e] 2016 ds iko/kkukud kj , oa dkfeZd , oa i f"kk.k foHkkx ds dk; kÿ; Kki uk ds ennsutj tgka rd I Hko gks I da oknh dh inLFkki uk fn0; kx tu gsrq I qE; dk; LFky ij djæ tgka ij og I æBu ds fodkl ea viuk I okÿke ; ksnku ns I da A

8- ekeys dks cIn fd;k tkrk g\$A rnkud kj I Hkh i {k voxr gkæA

¼"kdÿryk Mh- xkefyu½
e[; vk; Qr ¼fn0; kx tu½

dl l a 10371@1022@2018

fnukad% -09-2019

ds ekeys ea %&
Jh epl'sk iztkfir
dyk f''k{k d
Tkogj uokn; fo | ky;
dki xat] mRrj ins'k

&oknh

cuke

uokn; fo | ky; l febr
%>kjk % vk; Ør½
Ckh&15] l LFkkxr {ks=
l DVj &62] uks Mk
mRrj ins'k&201307

&ifroknh

l quokbz dh frfFk% 13-09-2019

mi l Fkr & Jh epl'sk dækj iztkifr & oknh
Jh euh'k ; kno] vf/koDrk & oknh dh rjQ l s
Jh foØe tks'kh] mik; Ør & ifroknh dh rjQ l s
Jh d'.k xk&M] vutkkx vf/kdkjh & ifroknh dh rjQ l s

vkns'k

Jh epl'sk dækj iztkifr] 60 ifr''kr vLFkfn0; kax us mudk LFkkukarj.k fujLr djokus l s
l æf/kr f''kdk; r fnukad 28-09-2018 fn0; kaxtu vf/kdkj vf/kfu; e] 2016 ds varxh bl U; k; ky; ea
nk; j dh A

2- ekeys dks vf/kfu; e dh /kkj 75 ds varxh U; k; ky; ds i= fnukad 26-11-2018 }kjk ifroknh
ds l kFk mBk; k x; k A

3- l gk; d vk; Ør½ LFkk-AA½ uokn; fo | ky; l febr us i= fnukad 30-01-2019 }kjk l fipr
fd; k fd Jh epl'sk iztkifr ts uoh] tcyij %e/; ins'k½ ea dyk f''k{k d ds : lk ea rñkr Fks A
mlga 04 vU; f''k{k.k vkj xj & f''k{k.k deplfj; ka ds l kFk ts uoh] tcyij l s iz'kkl fud Lrj ij
LFkkukarfjr fd; k x; k vkj l febr ds {ks=h; dk; kzy; } y[kuÅ ea l Ec) fd; k x; k A mudh
l ca) rk ij] {ks=h; dk; kzy; } y[kuÅ us mlga ts uoh dki xat] mRrj ins'k½ ea vLFkk; h : lk l s
rñkr fd; k A mlgaus ts uoh dki xat l s ts uoh jkeij ea iksLVax ds LFkku dks cnyus dk
vujksk fd; k FkkA muds vujksk ij fof/kor fopkj djrs gq mudh inLFkki uk dks vkns'k fnukad
16-11-2018 nekjk ts uoh] dki xat l s l ñkks/kr djrs gq ts uoh jkeij ea fd; k tk pppk gA
bl ds vykok] ; g l Ø; gS fd l febr ds vf/kdkfj; ka ds rcknyka dks ipfyr LFkkukarj.k uhr ds
iko/kkuka ds vuq kj i ñkkoh fd; k tk jgk gA LFkkukarj.k uhr ds [kM 2½ ds vuq kj] iz'kkl fud
vk/kj ij LFkkukarfjr fd, x, deplfj; ka dks oki l ml h LVs'ku ij LFkkukarfjr ugha fd; k tk
l drk gS tgka l s mlga iz'kkl fud vk/kj ij LFkkukarfjr fd; k x; k Fkk A bl ds /; ku ea j [krs gq
ts uoh] tcyij l s gq LFkkukarj.k dks jnn djus ds fy, Jh epl'sk iztkifr ds vujksk ij fopkj
djuk iz'kkl fud : i l s l ñko ugha gA gkykfid] i ñbrhiz jsk ea of.kr dFku vuq kj] i kslVax ds

LFkku ea ifjorðu@l ákkáku ds fy, muds vugiðsk dks igys gh fof/kor ekuk x; k gS vks muds vugiðsk ij íkSLVax ds LFkku dks tsuoh jkeig ea l ákká/kr fd; k tk pplk gA l febr fn0; kak deþkfj; ka ds fy, ykxw **vkj{k.k vks fj; k; rã* fo'k; ij fof/kor fu; eka vks funðkka dk ikyu djrh gA LFkkukarj.k eþ "kh'kz vf/kdká k íkFfedrkj LV'sku ij l kekk; dk; Zky ij k djus dh "krkð dsfcukj v{ke deþkfj; ka dks LFkkukarj.k dh ekax djus ds fy, nh tk jgh gA fn0; kak deþkfj; ka dks ekfur fjDr LFkku ?kká'kr gkus ds mi jkar Hkh l jf{kr fjDr LFkku ekudj mlga foLFkki u l s Hkh cpk; k tk jgk gA

4- oknh us vi us ifrmýkj ea vi uh eyw f"kd; r dks T; ka dk R; ka nkújk; kj dksZu; k rF; i Lr; ugha fd; k A

5- ifroknh ds i= fnukad 15-04-2019 , oa oknh ds ifrmýkj fnukad 30-05-2019 ds ennatj ekeys eafnukad 13-09-2019 dks , d 0; fDrxr l quokbz fu/kkZjr dh x; h A

6- mi jkDr l quokbz ds nkjku oknh ds ifrfuf/k us íkpk; Z }kjk muds í{k ij >Bs vkjki yxkdj mudk LFkkukarj.k 1000 fdeh nj dj fn; k x; k gSA mDr inLFkki uk rnLFk in ij gþz u dh oknh dks lknkbur fd; k x; k gA

7- l quokbz ds nkjku ifroknh ds ifrfuf/k us dgk fd oknh o'kz 1996 l syxkrkj 15 o'kz l s , d gh LFkku ij l ok ns jgs Fks A dþy oknh dks gh LFkkukarfjr ugha fd; k x; k gS cfYd buds l Fk 06 vU; deþkfj; ka ds LFkkukarj.k Hkh fd, x, gA ifroknh dk ; g Hkh vkjki Fkk fd oknh dh otg l s 550 fo|kFkz; ka ds Hkfo'; lkj íkkko íM+jgk Fkk A oknh ds vugiðskkuð kj jkeig inLFk fd; k x; k gA ifroknh ds vuð kj oknh mDr LFkku ij 02 o'kz íwiz gkus ij fu; ekud kj LFkkukarj.k gsrq í q% vkonu ns l drs gA

8- nkúka í{kka dks l qus ds ckn ; g Kkr gkerk gS fd oknh 15 o'kz l s xg uxj inLFk Fkð vr% mlga vc LFkkukarj.k ij , rjkt ugha gkuk pkfg, vks u gh , d h dksZ ck/; rk gS fd xguxj ij gh inLFkki uk inku dh tk, a rFkfi ifroknh dks l ykg nh tkrh gS fd tgka rd l kko gks l da oknh dks muds xg uxj ds utnhd inLFk djus dh l kkkouk ryk"kuh pkfg, A ekeys ea vkxs dk; Zkgh víf{kr ugha gA ekeys dks ckn fd; k tkrk gA

9- l Hkh í{k rnkud kj voxr gkwa A

¼'kdUqyk Mh- xkefyu½
e[; vk; þr fn0; kaktu

df l 0% 10785@1022@2019

fnukad% 22-11-2019

ds ekeys e&&

Jh ujbnz fl g
e[; vkj {kd ¼t hMh½
16oha okfguh l hek l g {kk cy
l yXu l 0gMOchdkuj A

oknh

cuke

l hek l g {kk cy
¼}kj k egkfunskd½
dñh; dk; kÿ; ifl j
10] cykkd] yksh jkMf ubz fnYyh & 110003

ifroknh

l ukobz dh frffk; ka % 23-08-2019 , oa 09-10-2019

fnukad 09-10-2019 dks mi fLFkr%

- 1- Jh ujbnz & ikfkz
- 2- Jh dsMh- /; kuh] , -l h- ¼, e½ foi {kh dh vkj l s

vkns'k

mi jkDr f"kd; rdrkz Jh ujbnz fl g us vi us LFkkukarj .k l s l æf/kr f"kd; r & i = the Rights of Persons with Disabilities Act, 2016 ds vUrxr bl U; k; ky; ea iLnr dhA

2- f"kd; rdrkz dk vi uh f"kd; r ea dguk gSfd og 16oha okfguh l hek l g {kk cy ea LFkkbz rks ij l DVj e[; ky;] l hek l g {kk cy] chdkuj ea dk; jr gS rFkk mudh iRuh vkj cPph ekuf d jkx l s xfl r gSftl dk bykt igys ,El vLirky] fnYyh ea py jgk Fkk vkj vc ih-ch, e- vLirky] chdkuj ea py jgk gA ikfkz dk vkxs dguk gS fd 16oha okfguh jktLFkku l hekUr l s LFkkukUrj .k gkdj tEew l hekUr e[; ky; l hek l g {kk cy ds v/khu tk jgh gS vxj og okfguh ds l kFk pys tkrs gS rks muds ifjokj dh ns[kHky djus okyk dkbz ugha gA mlghaus vujkshk fd; k gS fd mlgha LFkkbz LFkkukUrj .k ubz fnYyh ; k p.Mhx<+fn; k tk, A

3- ekeys dks the Rights of Persons with Disabilities Act, 2016 dh Mkjk 75 ds vUrxr i = fnukad 26-02-2019 }kj i froknh ds l kFk mBk; k x; k ijUrq Lej .k i = fnukad 24-04-2019 ds i "pkr-Hkh i froknh l s dkbz mRrj ugha vk; kA bl fy, fnukad 23-08-2019 dks l ukobz j [kh xbA

4- I þokkðz fnukad 23-08-2019 ds fnu i kfkhlz us vi us fyf[kr dFkuka dk nksj;k; k rFkk foi {kh dh vksj l s mi fLFkr i frfuf?k us crk; k fd Jh ujbñz fl g ds fnYyh vFkok p.Mhx<+ ea Lfkkukarj.k djus l æðkh ekeys ij l gkuðkfririoð fopkj fd; k x; k] foHkkx }kjk fn0; kax vkfJr dh ns[kHkkky grq Lfkkukarj.k ds fy, 05 tksu ?kkf'kr fd, x, gS ftl ea fnYyh@tkyU/kj@caxykj@dksydRrk , oa fl yhxð/lh l fEefyr gS fnYyh tksu ea ; kx; rk o fjfDr u gkus dkj.k dkfeð l s ckdh cps vl; tksu dh fdl h QhYM ; fuv ea Lfkkukarj.k grq funs'kky; ds l pkj i = fnukad 09-05-2019 ds rgr mudh bPNk ekach xbz Fkh ml h nksku dkfeð us fnukad 18-06-2019 dks 0; fDrxr rks ij l {ke vf/kdkjh ds l Eeq[k vi us Lfkkukarj.k ds l æðk ea l k{kRdkj grq mi fLFkr gqvk Fkk rFkk dkfeð dk Lfkkukarj.k mudh bPNk ds vk/kkj ij 13 cVky; u] l hek l g {kk cy ckMej ½jktLFkku½ ea dj fn; k x; k gA foi {kh dh vksj l s vk, i frfuf/k us crk; k fd dkfeð dh l el; k ij l hek l g {kk cy us i nZ ea Hkh vR; f/kd l gkuðkfririoð : [k vf[r; kj fd; k] ftl ds dkj.k Lfkkukarj.k fu; eka ea l {ke vf/kdkjh }kjk <hy cjr h x; hA

5- fnukad 09-10-2019 dh l þokkðz ds nksku] i kfkhlz us vi us fyf[kr dFkuka dk nksj;k; kA foi {kh dh vksj l s vk, i frfuf/k us ; g crk; k fd mDr i kfkhlz fnukad 16-03-2012 l s fnukad 21-11-2015 rd l hekar eq[; ky;] l hek l g {kk cy] tkski g , oa fnukad 22-11-2015 l s vc rd l ðVj eq[; ky;] l hek l g {kk cy] chdkuj ea l ayXurk ij Lfkkbz LFkku ij rðkr gA foHkkxh; fu; ekuð kj , d LFkku l s i p% nñjs Lfkkbz LFkku ij Lfkkukarj.k ds fy, fu; ekuð kj 10 o'kz dk dñyax vkñD i hfj; M ij;k djuk vfuok; Z gA dkfeð us orðku in ij 02 o'kz dk vfuok; Z QhYM l okdky ij;k ugha fd; k gS tks fd mudh vxyh inkdur ds fy, vfuok; Z gS rFkk orðku l e; ea okfNr LFkkuka ij bl in dh fjfDr Hkh mi yC/k ugha gA mudk vxks dguk Fkk fd foHkkx }kjk fn0; kax vkfJr dh ns[kHkkky grq Lfkkukarj.k ds fy, 05 tksu ?kkf'kr fd, x, gS ftl ea fnYyh@tkyU/kj@caxykj@dksydRrk , oa fl yhxð/lh l fEefyr gS fnYyh tksu ea ; kx; rk o fjfDr u gkus dkj.k i kfkhlz l s ckdh cps vl; tksu dh fdl h QhYM ; fuv ea Lfkkukarj.k grq mudh bPNk ekach xbz gS ftl ds i ktr gkus ij i kfkhlz ds Lfkkukarj.k ij dk; bkg dh tk, xhA

6- nksuka i {kka dks l þus ds mi jkar i froknh ds rjQ l s fdl h i dkj dk mYyðku i rhr ugha gkrk gS i jarq oknh ds i kfjokfjd i fjfLFkr; ka , oa fn0; kax cPps fd mfpr ns[kHkkky , oa mfpr fpdfRI kRed okroj.k grq i froknh l s ; g vi {kk dh tkrh gS fd os ekuoh; vk/kkj ij oknh ds Lfkkukarj.k ij i p% fopkj djA

7- mDr vuqka k ds l kFk dð dks can fd; k tkrk gA

¼'kdðryk Mh- xkefyu½
eq[; vk; ðr ¼fn0; kaxtu½

4- mi egki zalkd %dkfezd% Vh, pMhl h bñM; k fyfeVM us vius i= fnukad 25-01-2019 }kjk crk; k fd Jh vk"kh'k døkj tñ Vh, pMhl h bñM; k fyfeVM ds __f'kds'k fLFkr jktHkk'kk foHkkx ds dKWkj% d; k; ky; ea rñkr g\$ dKWkj% d; k; ky; gkus ds dkj .k ijs fuxe ea jktHkk'kk fgñh ds dk; k; u; u dh ftEenkjh jgrh gS, oa dk; Z dh vf/kdrk ds l kFk&l kFk =fV; ka ds fy, dkbz xqtkbz'k ugha gksrha Jh vk"kh'k døkj tñ dks muds "kkjhfd ,oa ekufi d {kerk ds vuq lk ,oa mudh nf'Vck/; rk dks /; ku ea j[kdj gh dk; Z l k\$ k tkrk gS rFkk muds fn0; kx gkus ds otg l s ,oa ekuoh; l onukvka ds enmutj fuxe }kjk muds dk; ka ea yki jokgh ,oa mi \$kk ik, tkus ds mijka Hkh fdl h rjg dh foHkkxh; dk; bkg h ugha dh x; h g\$

5- ikFkhZ dk vius ifrmRrj fnukad 06-02-2019 eadguk g\$fd ifroknh dh vkj l s iLrñ tokc l rkskin ugha g\$ ofj'B izalkd ds }kjk fd, x, vieku ,oa nñ; bgkj dks cMh l Qkbz l s foykfir dj fn; k x; kA

6- mi egki zalkd %dkfezd&LFkki uk@fglñh% Vh, pMhl h bñM; k fyfeVM us vius i= fnukad 09-04-2019 }kjk crk; k fd ikFkhZ Jh vk"kh'k døkj tñ dk muds fjik\$Vx vf/kdkjh ds l kFk mudk dñ er&Hkn g\$ bl s l kku ea ysfy; k x; k g\$ rFkk ; Fkk l e; l eqpr dkj bkbz dh tk, xhA

7- ikFkhZ us vius i= fnukad 31-05-2019 }kjk fuonu fd; k fd muds dñ ea tYn l s tYn l qokbz j[kh tk, A ifroknh ,oa oknh ds i=ka ds enmutj] fnukad 16-10-2019 dks l qokbz j[kh xbA

8- l qokbz ds n\$ku] ikFkhZ us vius fyf[kr dFkuka dks n\$gjk; k ,oa ifjoknh ds vfHkoDrk us vfrfjDr nLrkost tek djrs gq crk; k fd ijh f"kd; r Jh v"kkad døkj JhokLro] ofj'B izalkd }kjk mRi hMtu ,oa nñ; bgkj l s l cñ/kr g\$ rFkk fn0; kxtu vf/kdkj vf/kfu; e fd /kkjk 75@76@77 ds vuq kj ,d futh 0; fDr ds f[kykQ vkgoku ugha fd; k tk l drkA vf/koDrk us ; g Hkh crk; k fd Jh vk"kh'k tñ dk LFkkurj.k __f'kds'k l s dks'kkEch] mRrj in\$'k ea dj fn; k x; k g\$ RkFkk ikFkhZ us ml ds fy, ekuuh; mPp U; k; ky;] u\$hrky ea dñ ntZ Hkh fd; k g\$

9- pñd ekeyk ekuuh; mPp U; k; ky;] u\$hrky ea fopkj k/khu g\$ bl fLFkr eq bl U; k; ky; }kjk dkbz vuqka k tkjh djuk mfpr i rhr ugha gksrka

¼'kdñryk Mh- xkefyu½
ed; vk; ðr ¼fn0; kxtu½

Case No. 8656/1014/2017

Dated: 08.11.2019

In the matter of:-

Shri Arun Krishna Dumarki
H.No. 833, Mahadev Nagar
At/Post – Sambra, Tal/Dist – Belgaum
Karnataka – 591124

Complainant

Versus

Airports Authority of India
(Through the Chairman)
Rajiv Gandhi Bhawan
Safdarjung Airport, New Delhi - 110003

Respondent

Dates of Hearing: 17.06.2019, 06.09.2019 & 18.10.2019

Present on 18.10.2019:

1. Complainant - absent
2. Shri Shivinder Singh, Manager (Law), Shri L.N. Sharma, Asstt. Manager, Shri Aman Yadav, Advocate on behalf of respondent

ORDER

The above named complainant Shri Arun Krishna Dumarki, a person with 60% locomotor disability filed a complaint dated 19.09.2017 under the Rights of Persons with Disabilities Act, 2016, hereinafter referred to as the RPwD Act, 2016 regarding appointment on compassionate ground;

2. The complainant has inter-alia submitted that his father was working as a Senior Attendant Beldar in Airports Authority of India and had died during service. He further submitted that he had applied for employment on compassionate grounds in Airports Authority of India in Dec. 2007 and AAI had issued appointment order on 28.04.2010 but his appointment order was cancelled within 15 days without giving any notice. He further submitted that finally, he approached PMO and he received a reply from AAI informing him that due to privatization of Delhi and Mumbai Airport, employees became surplus. Hence, no compassionate appointments were being made and that they have informed PMO that they have provided all the service benefits as per the existing rules to the widow.

3. The matter was taken up with the respondent vide letter dated 22.12.2017 under Section 75 of the RPwD Act, 2016.

4. In response, General Manager (HR), Airports Authority of India vide letter dated 29.01.2018 has submitted that the request of Shri A.K. Dumarki for appointment on compassionate ground was considered and vide letter dated 28.04.2010, approval was conveyed to respective REDs regarding appointment on compassionate ground in respect of 47 candidates including Shri A.K. Dumarki. However, pursuant to leasing of Delhi & Mumbai Airports by Govt. of India to Joint Venture Companies namely DIAL & MIAL respectively, the Hon'ble High Court of Delhi vide order dated 27.04.2010 in W.P. (C) 8008/2008 and 8532/2009, directed AAI for gainful employment of excess/temporarily retained manpower in Delhi 201 (Non-executives) and Mumbai 685 (Non-executives). In fact, these employees have not been absorbed by JVC and those became surplus and were required to be gainfully redeployed by AAI to comply with the order of Hon'ble High Court of Delhi. Accordingly the order dated 28.04.2010 was cancelled by AAI vide Order dated 14.05.2010. They further submitted that as per the Supreme Court order in case of Union of India & Anr. Vs Shashank Goswami & Anr. (Civil Appeal Nos. 6224 of 2008) that if the compensation on death of any employee to his/her family is five lakhs in case of Group 'B', three lakhs in case of Group 'C' and two lakhs in case of Group 'D', then no case is made out for appointment on compassionate grounds. The family of deceased has received total payment 11,94,585/- under Social Security Schemes. He further submitted that no employment on compassionate ground is being made by AAI since long as AAI has the best Social Security Scheme in the Public Sector and has also taken decision in principle not to consider any case for employment on compassionate ground.

5. Complainant vide rejoinder dated 03.11.2017 has inter-alia submitted that he is not agreed with the statements submitted by Airports Authority of India.

6. After considering the respondent letter dated 29.01.2018 and the complainant's letter dated 05.06.2018, it was decided to hold a personal hearing in the matter therefore, the case was listed for personal hearing on 17.06.2019 and as per the request of the respondent, the hearing was re-scheduled for 06.09.2019 and later for 18.10.2019.

7. During the hearing, the complainant was absent and the representatives of the respondent reiterated the written submissions and informed that AAI has already granted all the due benefits to the family of Late Shri Krishna Hanamant Dumarki and is extending adequate medical facility to the spouse of the deceased employee and his children, as per the Rules of the Organization.

...3....

8. After hearing the parties and perusing the documents made available to this office, it is observed that the respondent has taken a policy decision not to make any appointment on compassionate ground. No material on record could be established pointing to any discrimination against the petitioner on the ground of disability. The response of the respondent in the matter is found to be satisfactory and this court does not find any merit for its intervention. Accordingly, the case is disposed of.

(Shakuntala D. Gamlin)
Chief Commissioner for
Persons with Disabilities

df I 0%9925@1024@2018

fnukd% 25-11-2019

ds ekeys e%

Jh usjke
Mkd I gk; d
i zkku Mkd?kj] yksh jkM+
ubZfnYyh & 110003

oknh

cuke

Mkd foHkkx
phQ i kLVekLVj tujy dk dk; kzy;
}kj k phQ i kLVekLVj tujy dk dk; kzy; ½
fnYyh I fdj] es| nr Hkou
ubZfnYyh & 110001

i froknh

I ukobz dh frfFk % 16-10-2019

- 1- usjke & i kFkhZ
- 2- Jh i ekn fl g] tul i dZ fujh{k d foi {kh dh vkj I s

vkns'k

mijkDr f"kd; rdrkz Jh usjke] Mkd I gk; d us I keku; njka I s nq;uk
ifjogu HkRrk inku djus I s I a/kr f"kd; r & i = fn0; kat u vf/kdkj vf/kfu; e]
2016 ds vlr xzr bl U; k; ky; ea i Lr q dhA

2- f"kd; rdrkz dk viuh f"kd; r fnukd 18-06-2018 ea dguk gS fd mlga
Institute of Human Behaviour & Allied Science }kj k 50 ifr"kr dk fn0; kærk
i ek.ki = tkjh gq; k gS rFkk fn0; kær de p kjh dks feyus okyh I fo/kkvka ds I anHkz ea
mlgkus fnukd 26-09-2017 dks vi us foHkkx ea vkonu fd; k] i jUr q vkB eghus 0; rhr
gkus ds i "pk r-Hkh mlga nq;uk ; k=k HkRrk vkfn I fo/kk, a ugha feyh gA

3- ekeys dks fn0; kat u vf/kdkj vf/kfu; e] 2016 dh /kkjk 75 ds vlr xzr i =
fnukd 30-07-2018 }kj k i froknh ds I kFk mBk; k x; kA

4- In response, Asstt. Director (Staff & Legal), O/o CPMG, New Delhi vide
letter dated 22.10.2018 has submitted that the case was referred to R.M.L., Hospital
for ascertaining their recommendations and genuiness of the Medical Certificate
produced by Shri Net Ram. R.M.L., Hospital authorities vide letter dated 25.05.2018
informed that Shri Net Ram may be asked to obtain disability certificate from Ortho

Disability Board of Dr. R.M.L. Hospital. Accordingly, the official has been asked to appear before the Ortho Disability Board of Dr R.M.L. Hospital vide letter dated 12.06.2018. He further submitted that as per report of the Division, neither written statement from official side nor Disability Certificate from Ortho Disability Board of RML Hospital has been received in his office, therefore, allowance were not issued.

5- i kFkhZ dk vius ifrmRrj ea dguk gSfd og vkj-, e-, y- vLirky ea viuk fn0; kark iek.k Ortho Disability Board ea yodj x; s Fks , oa MKDVj ds vuq kj mudk fn0; kark iek.k i= Bhd , oa oSj gS rFkk mlGkus crk; k fd mudh fn0; kark dh Js kh dk iek.k i= Institute of Human Behaviour & Allied Science I s cuskk D; kfd jkti = vf/kfu; e ds vuq kj vc fn0; kark iek.k i= ftyk Lrj ij curs gA

6- ifroknh , oa oknh ds i= ds enautj] fnuad 04-09-2019 dks I ukobz j [kh xbZ ijUrq vijgk; Z dkj .kka I s i pfu/kkZjr dh xbZ A I ukobz fnuad 16-10-2018 ds nks ku i kFkhZ , oa ifroknh us vius fyf[kr dFkuka dks nks jk; kA

7- fn0; katu vf/kdkj fu; e] 2017 ds vuq kj] jkT; vkj dnz "kkfI r ins'k }kj vkf/kI fpr I {ke fpdfRI k I febr] fn0; kark iek.k i= tkjh djus ds fy, I {ke gA bl ekeys e] Institute of Human Behaviour & Allied Science us i kFkhZ dks 50 ifr"kr dk U; jk; kkt dy fn0; kark dk iek.k i= tkjh fd; k gA fn0; kark de p kfj; ka dks nks j nj ij ifjogu HkRrk nus dk epnk for ea=ky; ds funs'kkud kj I EcfU/kr foHkkx ds vkn'sk in fuHkZ djrk gA fn0; kark de p kfj; ka dks Mcy nj ij ifjogu HkRrk nus ds I e/k e] ; g U; k; ky; vuqkd k djrk gS fd ifroknh for ea=ky; ds funs'kkI ud kj i kFkhZ dks mPp nj ij ifjogu HkRrk nus dk fopkj djA

8- mDr vuqkd k ds I kfk ekeys dks can fd; k tkrk gA

1/4'kdHryk Mh- xkefyu1/2
ed; vk; Dr 1/4fn0; kark tu1/2

Case No: 9606/1011/2018

Dated: 27.11.2019

In the matter of:-

Shri Ratendra Singh Jayara
Sec. 24/6, Van Nigam Colony
Flat No. C 15, Ring Road, Indira Nagar
Near Kalyan Appartment, Lucknow , Uttar Pradesh - 226016
<ratendraj@gmail.com>

Complainant

Versus

Bank of Baroda
(Through the Managing Director)
Baroda Bhavan, R.C. Dutt Road
Alkapuri, Baroda – 390007

Respondent

Date of Hearing: 09.08.2019

Present:

1. Complainant - absent
2. Shri Girish Kumar, Asstt. General Manager (HRM) on behalf of respondent

ORDER

The above named complainant Shri Ratendra Singh, a person with 100% visually impairment person filed a complaint dated 02.04.2018 under the Rights of Persons with Disabilities Act, 2016, hereinafter referred to as the RPwD Act, 2016 regarding non implementation of the RPwD Act, 2016 by Bank of Baroda;

2. The complainant in his complaint has inter-alia submitted that Bank of Baroda conducted recruitment drive for the post of officers in different scales under recruitment of specialist officers in Bank of Baroda project 2016 – 2017 and two posts were reserved for VH candidates in middle management scale-II. The selection was on the basis of the candidate performance in the interview. He further submitted that he has been given less marks i.e. 54 as compared to other non disabled candidates as he has proper work experience of two years, MBA degree with finance as major subject, extracurricular activity (participated in six National level blind cricket tournaments and two National level para athletics championship organized by Paralympic Committee of India). He alleged that he was not selected for the post of Finance/Credit MMG Scale II in Bank of Baroda despite two seats being reserved for VH candidates in MMG Scale II level.

3. The matter was taken up with the respondent vide letter dated 19.07.2018 under Section 75 of the RPwD Act, 2016.

4. In response, Dy. General Manager (Strategic HR & OD), Bank of Baroda vide letter dated 20.08.2018 has submitted that the Bank had advertised for various specialized positions vide the advertisement dated 09.1.2016 and as per the reservation points, there were 02 vacancies reserved for VI candidates in MMG/S II. The Bank has selected 02 candidates under VI category in MMG/S II in the Recruitment Exercise 2016 -17. He further submitted that the Bank is maintaining the reservation roster and implementing reservation as per the DOP&T guidelines in letter and spirit. Shri Ratendra Singh Jayara did not qualify the interview and was as such not there in the final merit list of selection for the post of Finance/Credit MMG/S II.

5. The complainant vide rejoinder dated 28.02.2019 has inter-alia submitted that Bank of Baroda did not give explanation why he did not qualify in the interview despite giving all the answers correctly; certificate regarding his work experience as well as participation at the National level sports tournaments and championship were furnished. He further submitted that Bank of Baroda did not mention in their recruitment advertisement about how the marks will be allocated to the candidates in the interview. This negligence on the part of the Bank of Baroda needs to be clarified failing which it can lead to questions regarding discrimination and partiality in the interview.

6. After considering the respondent's letter dated 20.08.2018 and complainant's rejoinder dated 28.02.2019, it was decided to hold a personal hearing in the matter therefore, the case was listed for personal hearing on 09.08.2019.

7. During hearing the complainant was absent and representative of the respondent has explained his written submission that Shri Ratendra Singh Jayara did not qualify in the interview and was as such not there in the final merit list of selection for the post of Finance/Credit MMG/S II.

8. In the light of the above and material available on record, response of the respondent found satisfactory. This Court did not find any material on record regarding discrimination on the ground of disabilities. Therefore, case is disposed of without any recommendation.

(Shakuntala D. Gamlin)
Chief Commissioner for
Persons with Disabilities

Case No. 8826/1011/2017

Dated: 25.11.2019

In the matter of:-

Dr. Nitesh Kumar Tripathi
H.No. B – 241, B Block
Sant Nagar Burari, Delhi – 110084
<niteshtripathi85@gmail.com>

Complainant

Versus

Union Public Service Commission
(Through the Secretary)
Dholpur House, New Delhi

Respondent No. 01

M/o Health & Family Welfare
(Through Secretary)
Nirman Bhawan, New Delhi

Respondent No. 02

Date of Hearing: 07.08.2019

Present:

1. Complainant - absent
2. Shri Sarita Nair, Under Secretary, Shri Prashant K. Singh, JSO, & Shri T.K. Das on behalf of respondents

ORDER

The above named complainant Dr. Nitesh Kumar Tripathi, a person with 65% locomotor disability filed a complaint on 01.10.2017 under the Rights of Persons with Disabilities Act, 2016, hereinafter referred to as the RPwD Act, 2016 regarding non inclusion of persons with disabilities (PwD) candidates in reserve list of CMSE 2014, 2015 & 2016;

2. The complainant in his complaint has submitted that in the Reserved list published by UPSC for CMSE 2014 to 2016 on demand of M/o Health & Family Welfare, not even a single PwD candidate has been included while all the other categories have been given due re-presentation. He has requested to ask 100 points reservation roster for PwD from Nodal Ministry that is Health & Family Welfare and exact number of backlog vacancies in each Department under its cadre control, as MCD, CGHS and Indian Railway have made efforts to clear this as per the provisions of RPwD Act, 2016 in a time bound manner. He has requested to direct the respondent to launch a Special Recruitment drive to clear the backlog vacancies in all the departments under the control of Ministry of Health & Family Welfare.

3. The matter was taken up with the respondents vide letter dated 19.01.2017 under Section 75 of the RPwD Act, 2016.

4. In response, Under Secretary, Union Public Service Commission has informed that the vacancies reserved for PwDs in the Combined Medical Services Examination are based on the information furnished by the Ministry of Health and Family Welfare. The Cadre Controlling Authority maintains the relevant roster for Combined Medical Service Examination and earmarks vacancies for different categories of Persons with Disabilities and places the indents with the UPSC. He further submitted that the role of the Commission is limited to conducting the examinations as per the Rules of Examination notified by the Government (M/o Health and Family Welfare).

5. Further, the Under Secretary, M/o Health & Family Welfare vide letter dated 21.03.2018 has submitted that the requisition placed for PwD candidates for GDMO sub-cadre of CHS in CMSE-2014, 2015 and 2016 to UPSC and recommendations made by UPSC are as follows:

CMSE Year	PwD vacancies indented by CHS cadre	Candidates recommended by UPSC
2014	05	05
2015	07	07
2016	03	03

He submitted that, it was clear that there was no unfilled slot in PwD category as his Ministry has already received the required number of dossiers in respect of PwD candidates from UPSC in CMSE-2014, 2015 and 2016. Hence, no requisition of PwD candidates was placed before UPSC for Reserve List of CMSE – 2014, 2015 and 2016. Also reservation provisions contained in the RPwD, 2016 Act have come into force with Ministry of Social Justice and Empowerment Notification dated 19.04.2017 and therefore not applicable for CMSE – 2014, 2015 and 2016. He further submitted that a reservation roster for PwD candidates is being maintained for CHS Officer.

6. The complainant vide rejoinder dated 13.07.2018 has inter-alia submitted that the respondent had not answered as per the way of calculation of reservation on horizontal basis as meant for PwD and as per RPwD Act 2016, there must be at least 4% reservation in all these reserved lists for PwDs. He had requested to hold a personal hearing in the matter.

7. After considering the respondents' letters and complainant's e-mail dated 13.07.2019, it was decided to hold a personal hearing in the matter therefore, the case was listed for personal hearing on 07.08.2019.

8. During the personal hearing, the complainant was absent and the representative of the UPSC reiterated their written submission and representative of the Ministry of Health and Family Welfare also reiterated that they had already received the required number of dossiers in respect of PwD candidates from UPSC in CMSE-2014, 2015 and 2016. Hence, no requisition of PwD candidates was placed before UPSC for Reserve Lists of CMSE – 2014, 2015 and 2016.

9. In the light of the above and material available on record, the reply of the respondents was found satisfactory; therefore, the case is disposed of with the advice to the respondents to declare the result with the reserve list for Persons with Disabilities.

10. The Case is accordingly disposed of.

(Shakuntala D. Gamlin)
Chief Commissioner for
Persons with Disabilities

Case No: 6578/1011/2016

Dated: 27.11.2019

In the matter of:-

Ms. Dipti Ajabrao Dongre
Plot No. 37, Kothari Watika 2
Akola, Maharashtra
ameyshah1982@gmail.com

Complainant

Versus

Central Council for Research in Ayurvedic Sciences
(Through the Director General)
Ministry of Ayush
Jawahar Lal Nehru Bhartiya Chikitsa Evam
Homoeopathy Anusandhan Bhawan, 61-65
Institutional Area, Opp. 'D' Block, Janakpuri, New Delhi – 110058

Respondent

Date of Hearing: 29.07.2019

Present:

1. Complainant - absent
2. Respondent – Shri Rakesh Kumar, Assistant Director and Ms. Meenu, Legal consultant on behalf of respondent

ORDER

The above named complainant Ms. Dipti Ajabrao filed a complaint dated 20.06.2016 under the Persons with Disabilities Act, 1995, hereinafter referred to as the PwD Act, 1995 regarding 3% reservation for persons with disabilities to the post of Ayurved Research Officer in Central Council for Research in Ayurvedic Sciences.

2. The complainant in his complaint inter-alia submitted that after written test for the post of Research Officer (Ay.) conducted by Central Council for Research in Ayurvedic Science, she has received an interview letter. She further submitted that in the interview letter, CCRAS has mentioned that only lower limb locomotor disability 50% to 70% are considered for reservation against PH quota, which is contrary to OM dated 29.12.2005.

3. The matter was taken up with the respondent vide letter dated 22.07.2016 under Section 33 & 59 of the PwD Act, 1995.

4. In response, Administrative Officer (R&E), Central Council for Research in Ayurvedic Sciences vide letter dated 05.09.2016 has inter-alia submitted that as per advertisement for recruitment to the post of Research Officers and Statistical Officer for which written test through

online was conducted for recruitment of 155 posts the percentage of disabilities between 50 – 70% was adopted by AIIMS vide notification published in Gazette of India on 27.12.2010. However, candidate with disability of lower limbs between 50% to 70% shall be considered and in case candidates are not available of such disability, then the candidates with disability of lower limbs between 40% to 50% will also be considered as per decision in the Writ Petition (Civil) 184/2005 Dr. Kumar Sourav Vs. UOI & others Dr. Dipti Ajabrao Dongre secured 10 marks against 17.50 marks required to qualify in her (SC) category. Hence she could not be considered for interview irrespective of her disability percentage.

5. The complainant vide rejoinder dated 20.01.2017 has submitted that clarification given by the CCRAS is not justifying their policy regarding (1) total vacancies arisen from 1997 till date in Group 'A', 'B', 'C' & 'D' (2) identified post for all classes of PwDs, for example, hearing deformity, vision etc (3) Degree of disability for Ayurved Research Officer (4) Posting of selected PwD candidate.

6. After considering the respondent's letters dated 05.09.2016 & 10.09.2018 and the complainant's letters dated 20.01.2017 & 15.01.2019, it was decided to hold a personal hearing in the matters therefore, the case was listed for personal hearing on 29.07.2019.

7. On the date of hearing the complainant was absent and the representative of the respondent reiterated the written submission dated 05.09.2016 and informed that Dr. Dipti Ajabrao Dongre secured 10 marks against 17.50 marks required to qualify in her (SC) category. Hence she could not be considered for interview irrespective of her disability percentage. After perusal of the material available on record, the response of the respondent was found satisfactory.

8. The case is disposed of accordingly.

(Shakuntala D. Gamlin)
Chief Commissioner for
Persons with Disabilities