



न्यायालय मुख्य आयुक्त निःशक्तजन
Court of Chief Commissioner for Persons with Disabilities
सामाजिक न्याय एवं अधिकारिता मंत्रालय
Ministry of Social Justice & Empowerment
निःशक्तता कार्य विभाग / Department of Disability Affairs

Case No.78/1028/09-10

Dated:- 30.09.2014

In the matter of:

Shri Pratap Narain Bajpai,
Debts Recovery Tribunal,
600/1, Hanuman Setu,
University Road,
Lucknow.

..... Complainant

Versus

Punjab & Sind Bank,
(Through Chairman & Managing Director),
21,Rajendra Place,
New Delhi-110008.

.... Respondent

Date of hearing : 17.09.2014

Present :

1. Shri Pratap Narain Bajpai , Complainant alongwith Shri Chayan Ghosh Chowdhury.
2. Shri Rajat Arora, Advocate., on behalf of Respondent.

ORDER

The above named complainant, a person with 50% locomotor disability filed complaint dated 05.02.2010 under the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, hereinafter referred to as the Act regarding various issues like transfer, deputation to Debts Recovery Tribunal, Lucknow, promotion to JMGS-1, reimbursement of conveyance charges and payment of overtime etc.

2. The complainant submitted that he being a disabled ex-serviceman was recruited as Stenographer through BSRB, Lucknow and was allotted Punjab & Sind Bank. The complainant joined Punjab & Sind Bank on 28.06.1984 and since then he was posted at Zonal Office, Lucknow. After joining the bank, the complainant was discriminated and he felt harassed perpetually and continuously. He made several representations against such discrimination and harassment but the same were unheard and as such of no avail. The issues raised by the complainant were (i) transfer, (ii) deputation to Debts Recovery Tribunal, Lucknow, (iii) Promotion to JMGS-I, (iv) Reimbursement of conveyance charges and (v) Payment of overtime.

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3. The matter was taken up with the respondent Bank vide this Court's letter of even number dated 22.04.2010, 20.06.2011 and 19.07.2011.
4. The respondent vide his letter dated 10.10.2011 filed the comments in the matter. As per him, the prayers made by the complainant are not legally tenable nor this Court has jurisdiction over the matter. In case the complainant was aggrieved in any way, he had proper legal forum to raise his grievances. He is not entitled to any relief in this forum.
5. A copy of reply dated 10.10.2011 received from the respondent was forwarded to the complainant for his comments/rejoinder.
6. The complainant vide letter dated 23.10.2013 submitted his rejoinder in the matter. He denied the para-wise replies submitted by the respondent and submitted that CCPD has the powers to deal with such complainant under the provisions of PwD Act, 1995 and it was very much within the ambit and jurisdiction of this Court. He also submitted that while challenging the authority, the respondent has not advanced any reason in support of its statement except a phrasological utterance.
7. The complainant had also filed another complaint (Case No.65/1021/09-10) dated 28.04.2009 regarding debarment for three years from promotion of JMGS-1 by the respondent bank, Zonal Office, Lucknow. The said matter was heard on 17.05.2010 and decided vide ROP dated 19.05.2010. Thereafter the complainant had filed a letter dated 31.05.2011 praying for reopening of his case. The complainant was informed vide letter dated 12.07.2011 that there is no provision for review the ROP or Order of CCPD. If he is aggrieved, he may move to appropriate court of law for further orders/direction. Another letter dated 23.04.2014 was received from the complainant requesting for placing his complaint dated 28.04.2009 before the CCPD.
8. Upon considering respondent's replies and complainant's replies, the case was fixed for hearing on 04.08.2014 which was rescheduled to 17.09.2014.
9. During the hearing on 17.09.2014, reiterating his written submissions, the complainant submitted that despite denial of the deputation allowance and the conveyance allowance, the respondent Bank subjected him to harassment, as a result of which he was made to climb up to reach the second floor of the office. The Bank had also the option to engage the Stenographer on contract basis which they did not. His deployment in the Debt Recovery Tribunal was actually the transfer which was against the instructions issued by the Government of India and the respondent bank itself. It was thus a conscious effort on the part of the Bank to get rid of the complainant. He further submitted that since he was away from the mainstream, he missed a number of chances to apply for promotion to Officer Grade. The respondent Bank did not inform him about such circulars. He asserted that he was also discriminated in connection with promotion to general category in 2004 as he was neither informed about it nor was any Admission Card issued in his name for this purpose. Citing several pleas from the respondent's reply dated 0.10.2011, the complainant drew the attention of this Court to the repeated use of the term "Transfer" which the respondent now seek to disown and now call it "Attachment".

11. The Ld. Counsel for the respondent submitted that the present case is not a case of transfer but rather a case of attachment to the office of the Debt Recovery Tribunal, Lucknow as per the request letters dated 04.02.2002 and 31.05.2002 by the DRT and the Ministry of Finance, Department of Economic Affairs respectively. There has been no discrimination against the complainant on the ground of his disability as he was the only Stenographer available with the Bank as on 02.08.2002 and as such he was attached with the DRT. There has been no denial of promotion to the complainant. As for promotion to JMGS-I in Specialist Cadre of officer Steno, the minimum requirement is Graduate with Diploma in Stenography/secretarial practice. In any event, the issues raised in the present complainant have become infructuous as the complainant has superannuated in January, 2012. There has been no monetary loss to the complainant by his attachment to the office of the DRT. As per the complainant, he was paid deputation allowance from December, 2003 till the date of his superannuation .i.e. January, 2012.

12. It is observed that this case is pending since February, 2010 and the complainant has, in the meantime, superannuated in January, 2012 and hence the need to expedite disposal of this long pending complaint. In the light of the fact that the respondent Bank deployed the complainant in the office DRT, Lucknow on the request of Ministry of Finance and DRT for a Stenographer and other staff and that the complainant happened to be only Stenographer available with the respondent bank, Zonal Office, Lucknow, discrimination on the ground of disability vis-à-vis the employees without disability does not appear to have been made. However, it is another matter that it is incumbent upon all the Banks/establishments including respondent bank to ensure barrier free environment for all its employees with disabilities. But the fact remains that as the complainant has since superannuated, this Court with its limited powers, is not in a position to give any relief at this stage in respect of his submissions that he was not allowed the barrier free environment in DRT. It is also of some relevance to note that the original complaint filed by the complainant also does not refer to absence of barrier free environment in the DRT nor did the complainant ever allude to it explicitly in his representation to General Manager (Personnel) dated 17.10.2002. As per the letter of Zonal Manager of the respondent bank dated 03.08.2002, the complainant would be entitled for deputation allowance, if any, as per H.O. guidelines.

13. In the facts and circumstances of the case, this Court hereby advises the respondent bank to pay to the complainant deputation allowance from 03.08.2002 to 30.11.2003, if provision for grant of such allowances existed during the said period. However, if the contention of the complainant that there existed no provision for grant of deputation allowance during that period is true, the respondent may, alternatively, consider reimbursing local conveyance allowance to the complainant from 03.08.2002 to 30.11.2003 as admissible, if the complainant's submission before this Court to the effect that during the said period, he would first go to the bank in the morning on working days, record his attendance, then proceed to DRT, and in evening, he would return to the Bank and from there he would go back home, is true. Besides, he may also be paid overtime allowance, if any, admissible to him under the rules/instructions.

14. Action taken in the matter be intimated to this Court within six weeks from the date of receipt of this Order.

15. The matter stands disposed off in terms of the above observations.

Sd/-

(P. K. Pincha)
Chief Commissioner
for Persons with Disabilities