



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.691/1014/2013

Dated:-26.05.2014

In the matter of:

Shri Ram Bharos Meena,
S/o Saheb Lal,
Housing Board Colony,
House No. 03 C 18, Riddisiddi Nagar,
Kunhari, District - Kota (Rajasthan)

..... Complainant

Versus

South Eastern Railway,
Through Chief Personnel Officer,
Office of C.P.O.,
Garden Reach,
Kolkata -700043.

..... Respondent

Date of hearing : 05.05.2014

Present :

1. Shri Ram Bharos Meena, Complainant.
2. Shri P.S. Biswas, APO (Rectt.) on behalf of the Respondent.

ORDER

The above named complainant, a person with 80% locomotor disability, filed a complaint dated 19.11.2013 under the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, hereinafter referred to as the Act regarding recruitment to the post of Junior Clerk in South Eastern Railway.

2. The complainant submitted that the Railway Recruitment Cell, South East Railway, Garden Reach Road, Kolkata advertised various reserved posts for persons with disabilities under Special Recruitment Drive. He applied for the post of Junior Clerk. After passing the written examination, he was called for verification of documents and for typing test on 24.02.2013. According to the complainant, he was told that he would have to pass the typing test within 2 years from the date of appointment. However, he was not given the appointment letter and was told that he was not suitable for the post of Junior Clerk as his one arm is also affected besides both the legs though he can type with both of his hands.

.....2/-

3. As per Ministry of Social Justice & Empowerment's Notification No.16.70/2004-DD-III dated 15.03.2007, the post of Clerk (General) is identified for persons with disabilities of the category – OA, OL, OAL, BL, B, LV and HH.

4. Section 33 of the Act provides as under:-

“Every appropriate Government shall appoint in every establishment such percentage of vacancies not less than three percent for persons or class of persons with disability of which one percent each shall be reserved for persons suffering from –

- (i) Blindness or low vision;
- (ii) Hearing impairment;
- (iii) Loco motor disability or cerebral palsy, in the posts identified for each disability;

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

5. The matter was taken up with the Chief Personnel Officer, South Eastern Railway, Office of C.P.O., Garden Reach, Kolkata vide this Court's letter dated 16.01.2014 followed by reminder dated 27.02.2014.

6. The Chairman, Railway Recruitment Cell, Kolkata vide letter dated 07.02.2014 submitted that the complainant had applied for the post of Junior Clerk in PH-I with Grade Pay of Rs.1900/- and had appeared in the written examination on 16.09.2012. He was subsequently called for document verification and typing test wherein it was found from the Disability Certificate that both of his legs and one arm were affected by his Orthopaedic Handicap. The respondent further submitted that in terms of Railway Board's letter No. E(NG)II/2009/RC-2/5 List dated 27.08.2009 as well as South Eastern Railway's relevant Employment Notice No. P/PWD/(HQ)/1/2012 dated 07.07.2012, only such Orthopaedically handicapped persons whose one or both legs are affected are suitable for the post of Junior Clerk. Since Shri Meena's one arm is also affected besides both his legs, he was not suitable for the post of Junior Clerk in terms of the extant instructions. As such, he was not considered for empanelment due to the particular nature of his disability making him unsuitable for the post of Junior Clerk.

7. Upon considering the reply dated 07.02.2014 of the respondent, the case was scheduled for hearing on 05.05.2014.

8. During the hearing on 05.05.2014, the complainant reiterated his written submissions and further stated that as per the list of identified posts issued by Ministry of Social Justice & Empowerment, the posts of Lower Division Clerk (LDC), Upper Division Clerk (UDC) and other such clerical posts are identified for persons with locomotor disabilities of the sub category OA, OL and BL. Therefore, rejection of his candidature for the post of Junior Clerk on the ground that the post is not identified for persons with locomotor disability in One Arm is not justified.

9. The representative of the respondent submitted that the copy of the complaint actually did not reach in the office of Chairman, Railway Recruitment Cell, South Eastern Railway. He prepared a detailed reply after receiving the notice assuming that the matter pertains to the issue of identification of the post of Junior Clerk. He submitted a written statement dated 02.05.2014 wherein it has been stated that Ministry of Railways vide letter dated 27.08.2009 circulated a department-wise list of identified posts for persons with disabilities based on the lists of identified posts notified by Ministry of Social Justice & Empowerment vide their O.M. dated 18.01.2007, 15.03.2007 and 22.03.2007. He added that the post of Lower Division Clerk in the Personnel Department has been identified only for BL and OL and not for OA and the same was incorporated in the Employment Notice published by South Eastern Railway on 07.11.2012.

10. It is observed that Ministry of Social Justice & Empowerment had identified the post of Lower Division Clerk (LDC), Upper Division Clerk (UDC) and other clerical posts for persons with locomotor disability (OA, OL and BL) in 2007 and as well as in 2013. The post of Clerk (J), Upper Division Clerk in the Personnel Department and Lower Division Clerk/Upper Division Clerk, Data Entry Operator, Typist (Hindi) in the Traffic Department of the respondent have also been identified as suitable for OA, OL and BL. It appears that due to some typographical error, the post of Lower Division Clerk in the Personnel Department has been shown as identified only for BL and OL. In this view of the matter, the respondent South Eastern Railway with the approval of the Railway Board, if necessary, is directed to consider the appointment of the complainant to the post of Junior Clerk subject to his being found otherwise suitable as he is entitled to be considered for the said post. The respondent South Eastern Railway is advised to pro-actively take up this matter with the Railway Board who may dispose of the matter most expeditiously. A copy of this Order be endorsed to the Executive Director (N), Railway Recruitment Board, Railway Board, New Delhi. Action taken with respect to the matter be intimated to this Court within 45 days from the date of receipt of this Order.

11. The matter stands disposed of with the above directions.

Sd/-

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

Copy to:-

Executive Director (N), Railway Recruitment Board, Railway Board, Ministry of Railways, Rail Bhawan, New Delhi.