



सत्यमेव जयते

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.389/1041/2013

Dated:- 12.09.2014

In the matter of:

Shri Sachidanand Mishra,
Email <sachida2013@gmail.com>

..... Complainant

Versus

Railway Board,
Through Adviser (PG),
Ministry of Railway,
Rail Bhawan, New Delhi-110001.

..... Respondent No.1

The Chairman,
Railway Recruitment Cell,
East Central Railway,
Polson Complex, Dighaghat,
Patna-8000001.

.... Respondent No. 2

Case No.590/1041/2013

Shri S.G.S.Sisodia,
General Secretary,
Indian Association of the Blind,
154/C, Delhi Administration Flats,
Sindhoraan Kalan, Delhi-110052
Email sgssisodia@gmail.com

.... Complainant

Railway Board,
Through Adviser (PG),
Ministry of Railway,
Rail Bhawan, New Delhi-110001.

..... Respondent No.1

The Chairman,
Railway Recruitment Cell,
East Central Railway,
Polson Complex, Dighaghat,
Patna-8000001.

.... Respondent No. 2

Case No.715/1041/2013

Shri Narayan Ganguly,
President,
Blind Persons Association,
6B, Panchanantala Road,
2nd Floor, Kolkata-700029.

.... Complainant

.....2/-

Versus

Railway Board,
Through Adviser (PG),
Ministry of Railway,
Rail Bhawan, New Delhi-110001.

..... Respondent No.1

The Chairman,
Railway Recruitment Cell,
East Central Railway,
Polson Complex, Dighaghat,
Patna-8000001.

.... Respondent No. 2

Case No. 1010/1041/2014

Dr. Naval Kishor Sharma,
President,
Akhil Bhartiya Viklang Mach,
Bihar Netraheen Parishad,
Near Panchsheel High School,
Kumhrar, Patna – 800020.

.... Complainant

Versus

Railway Board,
Through Adviser (PG),
Ministry of Railway,
Rail Bhawan, New Delhi-110001.

..... Respondent No.1

The Chairman,
Railway Recruitment Cell,
East Central Railway,
Polson Complex, Dighaghat,
Patna-8000001.

.... Respondent No. 2

Date of hearing : 08.09.2014

Present :

1. Shri Amarnath De on behalf of Shri Narayan Ganguly, President, Blind Persons' Association, the Complainant.
2. S/Shri S.S. Rana, APO/RRC, N. Railways and S.S. Sandhuawalia, CPO/IR, N. Railway, on behalf of the Respondent.

ORDER

The above named complainants filed their respective complaints dated 23.08.2013 in Case No. 389/1041/2013; dated 23.10.2013 in Case No. 590/1041/2013; dated 16.11.2013 in Case No.715/1041/2013 and dated 31.10.2014 in Case No.1010/1041/2014 under the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, hereinafter referred to as the 'Act' against the respondents regarding non-implementation/violation of the guidelines for conducting written examination to persons with disabilities issued vide Office Memorandum No.16-110/2003-DD.III dated 26.02.2013 by the Ministry of Social Justice & Empowerment, Department of Disability Affairs.

2. The matter was taken up with the respondents under Section 59 of the Act vide letter dated 13.09.2013 and reminder dated 28.03.2014 in Case No.389/1041/2013; letter dated 25.10.2013 and reminder dated 28.03.2014 in Case No.590/1041/2013; and letter dated 19.12.2013 and reminder dated 03.04.2014 in Case No. 715/1041/2013.

3. As no reply was received from the respondents despite lapse of sufficient time, upon considering the complaints of the complainants, a hearing was scheduled on 08.09.2014.

4. While respondent no. 1 and 3, namely, East Central Railway and Eastern Railway respectively sought exemption from appearance before this Court, which was granted, respondent no. 2, namely, Northern Railway entered their appearance. Making their oral submissions before this Court, respondent no. 3 submitted that they have complied with the examination guidelines issued by Ministry of Social Justice & Empowerment, Department of Disability Affairs dated 26.02.2013 and pursuant to those guidelines, a circular issued by Railway Board vide letter No.E(NG)II/2006/RC-2/13 dated 18.10.2013, which states as follows:-

“Sub:- Recruitment of persons with disabilities from open market – qualification of scribes – regarding.

Attention is invited to para 2(ii)(b) of this Ministry’s letter of even number dated 17.09.2007 regarding guidelines for providing concessions/facilities including scribes to persons with disabilities (PWDs), while conducting examination for their recruitment from open market.

Pursuant to advice of the Court of Chief Commissioner for Persons with Disabilities, in Case No. 3891041/2013 dated 13.09.2013 that criteria like educational qualification, marks secured, age or other such restriction for the scribe should not be fixed and instead, the invigilation system should be strengthened so that the candidates using scribe do not indulge in malpractices like copying and cheating during the examination, it has been decided by the Board to delete para 2(ii)(b) of this Ministry’s letter of even number dated 17.09.2007.

Further, where recruitment notices have already been published, the recruiting agency may also issue corrigendum, bringing this fact to the notice of all concerned.”

5. The East Central Railway vide their letter no. ECR/HRD/RRC/1/07(Gr.D)/Written Exam dated 20.08.2014 have stated as follows:-

“3. In reference to Case No.389/1041/2013 dated 13.09.2013, instructions were issued by Railway Board’s letter no. E(NG)II/2006/RC-2/13 dated 18.10.2013 vide which criteria like educational qualification, marks secured, age or other such restriction for the Scribe have been removed. Accordingly, for the current notification (RRC/ECR/GP1800/1/2013), the proforma being sent to VH candidates for written exams to be held on 5 dates of November, 2014 has been revised. There is no such restriction now for engagement of Scribe by VH candidates. A copy of proforma is enclosed.

In view of compliance position furnished above, exemption from personal hearing on 08.09.2014 may kindly be granted.”

6. Respondent no. 3, namely, the Eastern Railway, has not informed that they have complied with the said guidelines albeit vide their letter no. RRC/ER/Kolkata dated 03.09.2014 have stated as follows:-

“The undersigned has highest respect for the Court of Chief Commissioner for Persons with Disabilities and is committed to ensure justice to the candidates belonging to Persons with Disabilities (PWD) including Visually Handicapped (VH) candidates as per guidelines issued

by Railway Board and Ministry of Social Justice & Empowerment, Government of India. The undersigned has nothing more to add regarding the complaint raised by Sri Narayan Ganguly and this letter may be taken as the submission of the undersigned before the Court of Chief Commissioner for Persons with Disabilities. As the undersigned is busy in conducting written examination for the candidates against Employment Notice No.0113 in the ensuing month of November, 2014 in which around twelve lakhs and fifty four thousand (12,54,000) candidates including Visually Handicapped (VH) will appear, the undersigned may kindly be exempted from personal appearance on 08.09.2014 at 3.00 PM before the Hon'ble Court of Chief Commissioner for Persons with Disabilities. The undersigned also submits that I will abide by the decision of the Hon'ble Court in the above mentioned case."

7. Reiterating the written submissions, the representative of the complainant stated that the Eastern Railway did not follow the guidelines in relation to the examination held on 17.11.2013 and 24.11.2013, thereby causing irreparable loss to candidates with blindness and candidates with low vision. He, therefore, prayed that this Court be pleased to direct the respondent no. 3, namely, Eastern Railway to allow those candidates with blindness and with low vision who could not take the examination held on 17.11.2013 and 24.11.2013 due to no fault of theirs.

8. The issue involved here is about non-compliance with the examination guidelines for candidates with disabilities by the railway.

9. It appears that the Northern Railway and the East Central Railway i.e. respondent no 2 and no. 1 respectively are complying with the said guidelines although prima facie this Court gets a sense that the said guidelines were not complied with by respondent no. 3 Eastern Railway.

10. It would also be in the fitness of things for this Court to observe here that the Railway Board has since issued the instructions dated 18.10.2013 pursuant to the Ministry of Social Justice & Empowerment, Department of Disability Affairs's guidelines dated 26.02.2013.

11. In the above view of the matter, respondent no. 3, namely, Eastern Railway are hereby advised not only to follow the said examination guidelines with utmost seriousness but also to consider the possibility of allowing such candidates with blindness and/or with low vision who could not take the examination held on 17.11.2013 and 24.11.2013 respectively to sit in the examination to be held in November, 2014 under intimation to this Court. It is relevant to note here that both the Ministry of Social Justice & Empowerment guidelines dated 26.02.2013 and the subsequent instructions issued by the Railway Board dated 18.10.2013 pre-date the examinations of the railway held on 17th and 24th November, 2013 respectively.

12. The matter stands disposed off accordingly.

Sd/-

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

