

Punjab Government Order

The visually impaired employees/teachers in Govt. Schools to get a disable friendly work environment and all facilities as enshrined in the PWD Act, 1995 vide the ORDER dated 15/09/2011 issued by the Govt. of Punjab in our petition titled as Jagdish Mitter versus State of Punjab & Ors. (CWP-15279-2011).

Jagdish Mitter is a 43 years old visually impaired school teacher in a Govt. school in Punjab since May 1998. The present principal of the said school who has joined this school on 08/2010 due to her personal reasons started asking for certain gratifications including sparing his car to Jagdish Mitter who due to his physical constraints had to engage a part time driver to drop and pick him and in between the car was parked in the school. Jagdish initially obliged her by sparing his car but later on when it became a routine practice he had to refuse to oblige her and due to the said reason she became vindictive and started misbehaving and ill treating on one or other pretext.

The Govt. employees according to the instruction dated 03.12.2004 issued by the Govt. of Punjab are to get their salaries through Banks. But the visually impaired Govt. Employees of all categories are exempted from the operation of the said instruction vide instruction dated 22.02.2005 and they are to draw their pay in cash from their respective offices. In fact being visually impaired number of times the signatures of these employees do not match with the signatures given in the bank and just to save them from this procedure the said instructions were issued. In this case Jagdish was asked to open a bank account which was opened by him and the salary was deposited in his bank account and then a bank voucher was used to get signed by him and verified by the Principal and somebody was sent to the school to get the cash and he used to get his salary in cash. But the Principal after Jagdish refused to oblige her by giving his car refused to sign the bank voucher.

Prior to the said vindictiveness of the principal Jagdish was escorted from one class room to another class room by the students. But now the Principal circulated an oral message to all the students and the teachers that nobody is to help him. In this school there is only one staff room for female staff and other male teachers all are from science stream and during their vacant periods sit in the laboratory. In the said circumstances Jagdish used to sit in the room of the clerk but now he was asked not to sit in that room during vacant period without giving any alternative. The matter does not end here only and with a malafide intention

Jagdish was assigned the duty of teaching drawing to the class Xth by the Principal just to harass and humiliate him since everybody knows that a visually impaired teacher cannot teach the said subject in any circumstances.

Since the disabled employees at number of times due to mindset are ill treated, humiliated and insulted due to their disability by the so called abled persons therefore, instructions dated 05.09.2002 were issued by the Govt. of Punjab and the said instructions clearly mandates that the disabled employees are to be posted on the place which is comfortable for them and the place where they can manage to come and fro, further to provide friendly environment which is required to be barrier free, to ensure that all other colleague are to cooperate and due regards and respect to the disabled colleague and their disability is not to be discussed in any circumstances and if any employee does so or comments against the disabled a stern action be taken against that employee. The said instruction directs the head of the departments to pay special and personal attention towards the difficulties and problem being faced by the disabled employees and also to put efforts at personal level to solve the same.

Jagdish finding no way out had to move various representations before the concerned authorities to intervene in the wake of Instructions 2002 and Instructions 2005 but no action was taken on the same. The Principal who was expecting that being a disabled, Jagdish is not going to speak for his legal Rights, got furious and he was summoned on 05.07.2011 by her through an employee of Class IV and he was insulted and humiliated due to his disability in the presence of the clerk, peon and one outsider who happened to be present in the office of the Principal. She crossed all the limits and said "I don't care about the complaints which are being filed against me, I am Principal and you have to obey my every legal or illegal order and if you don't obey I know to get it obeyed through "Chittar" You are a small visually impaired Punjabi Teacher and the people like you are roaming around on the roads and begging on the roads. If I write something against you, you would also be standing with them. If you are blind from eyes your legs are working and from today onwards no child will escort you to your class and you have to manage howsoever you can and you are not to sit in the room where presently you do sit."

Jagdish due to the said humiliation and ill treatment by the Principal got upset and went into depression and made an application to the Principal to allow him leave but the same was declined and she ordered that he cannot miss his classes and under the forced circumstances he had to take the period of class 10th and was freed by her according to her whims at 12:15pm and immediately after

that he went to the Civil Hospital, Hoshiarpur for medical check up. Jagdish has not recovered till date and still he is getting treatment from the said hospital and the Doctors have recommended for rest.

Jagdish due to the ill treatment caused by the Principal has been dragged into litigation and filed a writ petition praying for release of his salary without any delay for the month of April 2011 to June 2011 since the same has been deposited in the Bank Account of Jagdish. Further for directions to the disburse his salary in cash in future and also to ensure that Jagdish who is a visually impaired neither is ill treated nor is victimized on any malicious ground directly or indirectly in future by the Principal as provided under instructions dated 05.09.2002 and also to provide a congenial, friendly and barrier free work environment to him with all kind of support which is required for a disabled employee to perform his duties. Further for directions for taking stern action against the Principal whose conduct is in violation to the instruction dated 05.09.2002, Article 21, 14 and 16 of the Constitution of India and also in violation to the Provisions of the Persons with Disabilities (Equal Opportunity, Protection of Rights and Full Participation) Act, 1995.

The case was enlisted before the Punjab and Haryana High Court titled as Jagdish Mitter versus State of Punjab and Ors. vide CWP No. 15279 of 2011 and the Hon'ble Court on the first hearing itself has allowed the following relief:

- 1. Assistant Advocate General, Punjab was asked to talk to the principal over phone and tell her that the Court is very unhappy due to her behavior with a visually impaired school teacher.*
- 2. The principal was asked to be present personally on 09.09.2011 and explain her position.*
- 3. She was also directed to release the salary on the day the petitioner joins.*
- 4. Director General Education was directed to pass an order that the visually impaired teacher is to be provided a class IV employee may be Part time to ascot him from one class to other not only in this school but even if he is transferred in future in any school.*

On the second date of hearing i.e. 09/09/2011 the Hon'ble court was pleased to direct the State who are obligated to circulate categorically guidelines to be consistent with the legislative objective and to take an appropriate decision an appraise the court in this regard on the next date i.e. on 16/09/2011 and also to depute an additional male peon to provide effective assistance to the petition within one week.

On 16/09/2011 the Govt. of Punjab filed the order dated 15.09.2011 is available on official website of the State of Punjab. This order categorically directs to create an environment where all such employees/teachers can work with dignity and all facilities as enshrined under the Act are provided at the workplace.

The order dated 19/08/2011, 09/09/2011 and 16/09/2011 issued by the Punjab and Haryana High Court and the order dated 15/09/2011 issued by the Govt. of Punjab are also attached herewith.

The next date in the case is 11/10/2011.

CWP-15279-2011

Present: Ms. Veena Kumari, Advocate for the petitioner
Ms. Monica Chibbu Sharma, DAG, Punjab

Replies on behalf of the Respondent 1 to 3 have been filed and the same are taken on record.

One affidavit / reply has been filed by Sh. Inderjit Singh, D.E.O (SE) Hoshiarpur. It is stated that one additional peon (Male) has been posted vide order dated 14.09.2001 (AR-1).

Until further orders it is directed that the petitioner shall not be required to sign any document/form etc. and the authorities shall ensure that his monthly salary is paid him in cash.

List again on 12-10-2011

A copy of this order be given dasti to learned DAG for information and compliance.

Sd/-

SuryaKant
16/09/2011

Judge

CWP-15279-2011

Present: Ms. Veena Kumari, Advocate for the petitioner
Ms. Sudipti Sharma, DAG, Punjab

This issue raised in this case cannot be confined to the difficulties being faced by the petitioner alone. There might be several other specifically challenged teachers/employees who are also subjected to untold miseries/hardships everyday. The respondent no. 1 & 2 are obligated to circulate categorically guidelines to be consistent with the legislative intentment behind the provisions of the Persons with Disabilities (equal opportunities, Protection of rights and full participation) Act, 1995 with the view to integrate with and bring the special category employees to main stream. The principal Secretary Education Department as well as the Director General Education Punjab both are directed to take an appropriate decision and appraise the court in this regard on the adjourned date. Meanwhile directors Public Instructions (Secondary Education) DEO Hoshiarpur are directed to depute/post an additional peon (male) in the Govt. Senior Secondary School, Piplanwala for an effective assistance to the petitioner. The needful shall be done within one week.

List again on 16.09.2011

Let a copy of the order be handed over to the Learned DAG Punjab for necessary action and compliance.

Sd/-

SuryaKant
16/09/2011

Judge

CWP-15279-2011

Present: Ms. Veena Kumari, Advocate
for the petitioner

Notice of motion.

Ms. Sudipti Sharma, Learned Deputy Advocate General, Punjab accepts notice on behalf of the respondents.

As prayed for by her, adjourned to 9.9.2011.

Let four copies of the writ petition be handed over to the Learned State counsel during the course of day.

Reply, if any be filed before the date fixed with an advance copy of the opposite counsel.

Respondent no. 4 is directed to remain present in Court on the date fixed. She is also directed to release the due salary of the petitioner in cash forthwith on the day he resumes duties after availing medical leave. Any lapse in this regard shall be viewed seriously and may be taken as grave misconduct. The petitioner on his joining shall be provided a peon to assist him to visit from on class room to another to take his classes. The Director General, Education, Punjab is directed to ensure such an arrangement irrespective of the place of posting of the petitioner. Let a copy of the order be given dasti to Ms. Sudeepti Sharma, Learned Deputy Advocate General, Punjab for information and necessary compliance.

A compliance affidavit be filed on the adjourned date.

Sd/-

SuryaKant
19/08/2011

Judge

Annexure R-2/1
Govt. of Punjab
Department of Education
(Edu. -6 branch)

ORDER:

It has come to the notice of this office that specifically challenged teachers/employees are facing problems while serving in duty hours and are subjected to untold miseries/hardships everyday.

All the respective Govt. School Heads / DEO (EE)& (SE) and DPI (EE) and (SE) in the State of Punjab are directed to comply with the provisions of Persons with Disabilities (equal opportunities, Protection of rights and full participation) Act, 1995 so that no employee working under Department of Education Punjab should suffer in future. In addition they should ensure to create an environment where all such employees/teachers can work with dignity and all facilities as enshrined under the Act are provided at the workplace.

These orders are issued in compliance to directions issued by Hon'ble Punjab and Haryana High Court vide order dated 09.09.2011 in CWP NO. 15279-2011 i.e. Jagdish Mitter vs State of Punjab and Ors.

Strict Compliance must be ensured.

Sd/-

Hussan Lal
Secretary Education Punjab

Endst. No. 18/232/11-5PH. 6/7133 date 15/09/2011

All School Heads
District Education Officers

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Information through official website.