

In the Court of State Commissioner for Persons with Disabilities
National Capital Territory of Delhi
25- D, Mata Sundari Road, Near Guru Nanak Eye Centre, New Delhi-2
Phone-011-23216002-04, Telefax: 011-23216005, Email: comdis.delhi@nic.in
[Vested with powers of Civil Court under the
Rights of Persons with Disabilities Act, 2016]

Case No. 4/1173/2016-Wel/CD/ 601-602

Dated: 30/5/17

In the matter of:

Sh. Ajmer Singh,
Head Clerk, Language,
North DMC, 16th Floor, Civic Centre,
New Delhi-110002.

..... Complainant

Versus

The Commissioner,
North Delhi Municipal Corporation,
Dr. S.P.M. Civic Centre,
New Delhi-110002.

.....Respondent No.1

Date of hearing: 23.05.2017

Present

Sh. Ajmer Singh, Complainant.

Sh. Pankaj Kumar Sharma, Asstt. Commissioner, CED,
Sh. M.K. Singh, Asstt. Section Officer, CED on behalf of
Respondent No.2.

ORDER

The above named complainant, a person with above 40% locomotor disability vide his complaint dated 02.12.2015 submitted that he was appointed as LDC in MCD on 13.07.1983 against a reserved vacancy for persons with disabilities. He was promoted to the post of UDC on 02.05.1997 on adhoc basis although he should had been promoted in the year 1994. He was regularised as UDC on 09.06.2003. He further stated that LDCs who were promoted as UDC on adhoc basis through departmental test in the year 1997, had been regularised in December, 1997. He was promoted to the post of Head Clerk w.e.f. 01.06.2011 counting his service as UDC from 09.06.2003 instead of 1997. Consequently he did not get complete benefit of being a person with disability as per Govt. of India's instructions. He requested that the respondent may be directed to give him seniority in the post of UDC from the year in which vacancy had arisen and promote him to the post of Head Clerk accordingly.

2. The complaint was taken up with the respondent vide communication dated 16.02.2016 followed by reminders. The North Delhi Municipal Corporation, Central Establishment Deptt. vide letter dated 15.07.2016 informed that the complainant was promoted to the post of UDC under PH Quota on adhoc basis under the departmental promotion (seniority-cum-fitness) basis in the year 1997. He was promoted to the post of Head Clerk (Category 'B') on regular basis vide office order dated 01.06.2011. The respondent further submitted that the issue of regularisation of promotions to the post of UDC in respect of LDCs promoted during 1995, 1996 and 1997 was pending in the Tribunal (PB) and the Hon'ble High Court of Delhi and there was no provision of reservation under Physical Handicapped quota to Group B posts.

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3. Upon considering the reply of the respondent and rejoinder dated 27.07.2016 of the complainant, a hearing was scheduled on 23.05.17. During the hearing the representatives of the respondent submitted that vide circular No. S.O.-IV/DA-VII/CHD/NDMC/2017/1266 dated 31.01.2017 Sh. Ajmer Singh has been promoted to the post of UDC on regular basis w.e.f. 02.05.1997 and his seniority has been re-fixed in the post of UDC at serial No. 2036A below Smt. Swarn Kumari and above Smt Chitra. Further action to promote the complainant to the post of Asstt. Section Officer (previously Head Clerk) has already been taken and vigilance clearance has been sought vide letter dated 22.05.2017. A copy of the said letter has been taken on record. Thereafter, the DPC would be held and the complainant would be promoted.

4. The complainant submitted that he is satisfied with re-fixation of his seniority in the post of UDC and has requested the respondent for promotion to the post of Asstt. Section Officer and Section Officer. He requested to expedite his promotion to the next higher grades.

5. DoP&T, Govt of India had introduced reservation for persons with disabilities in the posts filled by promotion vide their OM No. 36035/08/89-Estt(SCT) dated 20th November, 1989. The complainant therefore was entitled to be considered for promotion to the post of UDC after he became eligible for promotion to that post in accordance with the then relevant recruitment rules subject to his position in the seniority list amongst the similarly placed LDCs with disabilities. He should have been considered by the DPC that was held immediately after he became eligible for promotion to the post of UDC.

6. Now that the respondent has re-fixed his seniority in the post of UDC to his satisfaction, the respondent is advised to hold the DPC / review DPC, as the case may be, for promotion to the next higher grades, within one month from the date of receipt of this order and promote the complainant from the date he would have been eligible for such promotions in accordance with the rules / instructions on the subject. This Court may be informed of the action taken in the matter within three months from the date of receipt of this order as required under Section 81 of the Rights of Persons with Disabilities (RPwD) Act, 2016.

7. During the hearing of this case and other such cases, it has been observed that there is a need for training of officers / staff on the issues concerning the rights of persons with disabilities in general and the benefits available to them under various schemes of the Government and their implementation in particular. In the light of this, the respondent may arrange training workshops for the officers and staff of North Delhi Municipal Corporation alongwith South Delhi Municipal Corporation and East Delhi Municipal Corporation. The Office of State Commissioner for Persons with Disabilities will extend whatever support it can.

The matter is disposed of accordingly.

Given under my hand and the seal of the Court this 30th day of May, 2017.



State Commissioner for Persons with Disabilities,
Court of Commissioner (Disabilities)
National Capital Territory of Delhi
Room No. - 1
25-D, Mata Sundari Road, New Delhi 110002

(Signature)
(T.D. Dhariyal) 20/5/17