

In the Court of the 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. 4/1248/2016-Wel./CD/503-04

Dated: 12/5/17

In the matter of :

Sh. Anitya Narain Mishra  
LDC/DCA Office, Shahdara North Zone  
Shahdara, New Delhi - 110032.

.....Complainant

Versus

The Director  
North Delhi Municipal Corporation  
11<sup>th</sup> Floor, Civic Centre  
Dr. S.P.M. Civic Centre  
New Delhi 110002.

.....Respondent

Date of hearing:  
Present:

05.05.2017  
Sh. Ashok Verma, S.O, North Delhi Municipal Corporation  
Sh. Vijay Pandey, ASO North Delhi Municipal Corporation  
Sh. Anitya Narain Mishra, Complainant.

### ORDER

The above named complainant with more than 40% loco, motor disability vide his complaint dated nil received on 29.04.2016, submitted that he was working as LDC w.e.f 01.02.2006 in DCA office Shahdara. He alleged that North Delhi Municipal Corporation had not included his name in the list of LDCs for promotion to the post of UDC, despite being the senior most LDC. Further no LDC with disability has been promoted.

2. The complaint was taken up with the respondent vide letter dated 06.05.2016 followed by reminders dated 26.05.2016, 04.07.2016, 19.10.2016, 03.11.2016 and 24.01.2017. The respondent, vide letter dated 15.11.2016 informed that the case of the complainant for promotion to the post of UDC was under process. Thereafter a hearing was scheduled on 17.03.2017 which was reschedule on 05.05.2017.

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3. During the hearing on 05.05.2017, the complainant reiterated that the eligibility for promotion to the post of UDC is 5 years services as LDC. He was promoted to the post of LDC in February, 2006. He became eligible for promotion to the post of UDC in Feb, 2011 itself. As per him, promotions to the post of UDC were made in 2011 and therefore he should have been promoted in 2011 as he is the senior most LDC with disability in all the three MCD

4. Had he been given the benefit of reservation for persons with disabilities, he would have been due for promotion to the post of Head Clerk now. He also alleged that reservation in promotion has not been implemented in any of the MCD.

5. The representatives of the respondent reiterated that the case for promotion to the post of UDC (SSA) in respect of the complainant along with other eligible employees was under process. The DPC could not be held due to model code of conduct in connection with the elections to MCD. As soon as the date for DPC is fixed, the complainant will be considered. They also clarified that after 2011 DPC for promotion to the post of UDC was held in 2016. They however did not give the information on whether any person with disability was considered against a reserved vacancy. Sh. Ashok Verma, S.O added that reservation for persons with disabilities was ensured after his joining while promoting Group D employees to the post of LDC in March, 2017.

6. It is observed that this case was taken up with North Delhi Municipal Corporation & East Delhi Municipal Corporation on 6.5.2016 and is pending since then. If the complainant had indeed become eligible for promotion to the post of UDC in 2011, he was likely to be promoted in that year or closely thereafter being the senior most among LDCs with disabilities in MCD. In that case, there is apparent deprivation on account of not considering the complainant for promotion against a reserved vacancy for a long period of time. The respondent must be aware that Govt of India had decided to provide reservation for persons with disabilities in Group C & D posts filled by promotion way back in 1989 vide DOP&T's O.M No.36035/8/89-Estt (SCT) dated 29.11.1989. It is a matter of concern that despite Five reminders to the respondent, even essential details of the case have not been made available leave alone any relief to the complainant. As per the instructions issued by the DOP&T from time to time, separate vacancy based reservation rosters are to be maintained for promotion of persons with disabilities against reserved vacancy in each group. The detailed instructions as amended from time to time on

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maintenance of rosters and effecting reservation for persons with disabilities are contained in OM No. 36035/3/2004-Estt(RES) dated 29.12.2005.

7. In light of the above, the respondent is advised to take the following actions without any further loss of time:

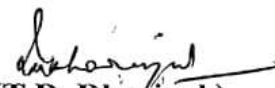
(i) Hold a DPC; and if necessary, a review DPC to consider the complainant for promotion to the post of UDC from the date he became due in accordance with the rules & relevant instructions by 31<sup>st</sup> May, 2017 and promote the complainant, if found fit, by 7<sup>th</sup> June, 2017.

(ii) Compute the reserved vacancies for persons with disabilities in promotion as well as direct recruitment in various Groups based on separate 100 - points vacancy based reservation rosters and take immediate action to fill the backlog of reserved vacancies in accordance with the instructions issued by DOP&T vide their OM No 36035/3/2004-Estt(RES) dated 29.12.2005 and as modified from time to time an action taken report be submitted to this court within three month from the date of receipt of this order.

The matter is disposed of accordingly.

Given under my hand and the seal of the Court this 12<sup>th</sup> day of May,



  
(T.D. Dhariyal)

**State Commissioner for Persons with Disabilities**

**Court of Commissioners (Disabilities)**

National Capital Territory of Delhi

25-D, Mata ... Delhi-02