

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](mailto:comdis.delhi@nic.in)  
[Vested with powers of Civil Court under the  
Rights of Persons with Disabilities Act, 2016]

Case No. 4/ 1606/2017 -Wel/CD/577-578

Dated: 26/5/17

**In the matter of:**

Sh. Arvind Kumar Sharma/Smt. Sudesh Sharma,  
WB 118,  
Shakarpur, Delhi-110092

..... Complainant

**Versus**

The Chairman-Cum- Managing Director,  
Deptt. of Transport Corporation,  
DTC Headquarter,  
I.P. Estate, New Delhi-110002.

.....Respondent

**Date of hearing:** 16.05.2017

**Present**

Sh. Arvind Kumar Sharma, Complainant.

Sh. P.K. Singhal, Dy. Manager (Personnel) and Sh. Raja Ram,  
Accountant, on behalf of Respondent.

**ORDER**

Sh. Arvind Kumar Sharma, a person with 80% locomotor disability filed a complaint dated 25.06.2015 alleging harassment by his Depot Manager Sh. Balraj Singh at Hasanpur Depot. The said complaint, which inter alia related to his deployment in the depot, was disposed of by the then Commissioner for Persons with Disabilities vide order dated 25.08.2015. The Depot Manager had then informed in writing on 21.08.2015 that Sh. Arvind Kumar Sharma had been deputed in the general office of the Depot on table duty on the seat of LTC claim and specialized Medical Claims of the

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employees. After a year, a complaint dated 11.09.2016 from Smt. Sudesh Sharma, wife of Sh. A.K. Sharma addressed to the Office of Chief Commissioner for Persons with Disabilities was received through that office vide their letter dated 03.10.2016. The said complaint was taken up with the CMD, DTC vide communication dated 10.11.2016 from the same case file No. 3/1033/2015-Wel/CD. In her complaint Smt. Sudesh Sharma, submitted that her husband had been transferred to Rajghat Depot-I on fabricated administrative grounds under Sh. Balraj Singh who had been harassing him at Hasanpur Depot. She prayed that her husband be transferred to Hasanpur Depot which was close to her house.

2. Since this is a fresh complaint it is being assigned a new case number.

3. The Dy. Manager (Personnel), DTC vide letter dated 06.10.2016 submitted that the complainant was physically and mentally fit and has disability in his hands. He had been making complaints to the Office of Chief Minister, Commissioner for Persons with Disabilities and other higher level. Similar two disciplinary cases were pending against him. In another case, he was warned. The respondent further has submitted that Sh. Sharma had also manhandled an Assistant Foreman and departmental action had been initiated against him. Despite these actions, Sh. Sharma had not stopped this type of activities which was vitiating the environment in the Depot. In case he had not been transferred, some untoward incident might have occurred. He was transferred from Hasanpur Depot to Rajghat Depot-I on 17.08.2016. Through another letter dated 13.02.2017, Dy. Manager (Personnel), DTC informed Sh. A.K. Sharma that his request for transfer from Rajghat I to Hasanpur or East Vinod Nagar cannot be considered with reference to his representation dated 23.11.2016. Thereafter hearings were scheduled on 23.11.2016 and 22.03.2017. However, the proceedings could not be conducted in the absence of either parties. Next hearing was scheduled on 16.05.2017.

4. On 11.05.2017, the complainant informed that on 01.05.2017, he was asked to take over the charge of Livery Section by Manager(Mechanical). It is also mentioned in the letter that Sh. Sharma had asked for the charge of livery section in writing and was directed to make a list of all the items in the livery section for which he has been

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given an assistant. It was further stated that in case he had any problem he would be given some other person to assist him. As per the letter he had also requested to provide him the complete duties as Incharge Livery, he should be given proper training and that it was not possible for him to make the list of items and take the charge. On 02.05.2017 Sh. Sharma informed Manager(Mechanical) that he had not been provided any assistant fitter.

5. On 04.05.2017, the Depot Manager informed him that he had been transferred to Rajghat-I on administrative grounds. Therefore he cannot be transferred to any other Unit for two years as per the transfer policy. On the other hand Sh. Sharma had been transferred to East Vinod Nagar Depot on 03.05.2017 by Dy. Manager (PLD), DTC HQ. On 08.05.2017, the Depot Manager Rajghat-I suspended the complainant based on the report of Sh. Kishan Lal Maurya, Foreman on the ground that on 19.04.2017 & 01.05.2017 Sh. Sharma was deputed to Livery Section but he refused to take over the charge of that section in front of Sh. K.L. Maurya, Foreman and Sh. Ashwani Kumar, Fitter. The Depot Manager concluded that Sh. Sharma was not interested to do any work. Sh. Sharma vide his letter dated 11.05.2017 alleged that Sh. Balraj Singh, Deputy Manager was harassing him by suspending him.

6. During the hearing on 16.05.2017, the representative of the respondent submitted that Sh. Sharma has already been transferred from Rajghat-I to East Vinod Nagar on 03.05.2017. Personnel Deptt. will pursue the matter with the concerned authorities to get him relieved at the earliest. All his record and pending disciplinary cases will automatically be transferred to the new independent depot authority i.e. Dy. Manager (East Vinod Nagar) and hence his grievance will automatically be resolved. The representative of the respondent also gave a written statement to this effect which was taken on record.

7. From perusal of records made available by the parties, it is observed that the concerned officer in the respondent's Corporation was apparently prejudicial to the interest of Sh. Sharma as he was posted to Rajghat Depot-I from Hasanpur Depot under the same Sh. Balraj Singh, Deputy Manager with whom Sh. Sharma's relations were not at all cordial and Sh. Sharma had complained against him. Transfer of Sh.

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Balraj Singh to Rajghat Depot-I within 15 days of the posting of Sh. Sharma to that Depot as his superior officer would also seem a deliberate attempt to settle the scores with Sh. Sharma for filing complaints. The sequence of events from 1st May, 2017 to 08.05.2017, when Sh. Sharma was placed under suspension also go on to point to an attempt to put Sh. Sharma under mental pressure and to harass him. It is a common practice that a person handing over the charge gives the list of items to the person taking over the charge. This was not done in case of Sh. Sharma as is seen from the letter of Manager(Mechanical) dated 01.05.2017 and letters of Sh. Sharma and his suspension order dated 08.05.2017. The actions on the part of the concerned official seem to be an attempt to implicate Sh. Sharma and then take departmental action against him, which is clear violation of the provisions of the Act and the instructions of Government. The entire episode for last two years has brought to the fore, a case of insensitivity and a revengeful attitude towards a person with disability which needs to be addressed by the concerned authority in Delhi Transport Corporation.

8. It is brought to the notice of respondent that DoP&T vide their OM No. 36035/3/2013/Estt.Res dated 31<sup>st</sup> March, 2014 have issued guidelines for providing certain facilities in respect of persons with disabilities who are already employed in Govt. for efficient performance of their duties. The said OM, among other things provides that as far as possible, the persons with disabilities may be exempted from the rotational transfer policy/transfer and be allowed to continue in the same job, where they would have achieved the desired performance. Further, preference in place of posting at the time of transfer/promotion may be given to the persons with disability subject to the administrative constraints. The practice of considering choice of place of posting in case of persons with disabilities may also be continued. To the extent feasible, they may be retained in the same job, where their services could be optimally utilised.

9. It is also important to note that Section 89 of the RPwD Act, 2016 provides, *"Any person who contravenes any of the provisions of this Act, or of any rule made thereunder shall for first contravention be punishable with fine which may extend to ten thousand rupees and for any subsequent contravention with fine which shall not be less than fifty thousand rupees but which may extend to five lakh rupees. Section 92.(a) of*

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*the said Act, also provides that whoever intentionally insults or intimidates with intent to humiliate a person with disability in any place within public view shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to five years and with fine."*

10. In the light of the facts and circumstances of the case and a careful examination of the documents made available, it is recommended that the respondent should personally ensure that the transfer order dated 03.05.2017 in respect of Sh. A.K. Sharma, Fitter is implemented without any delay and that he is not harassed thereafter. It should also be ensured that the complainant is not posted to work under Sh. Balraj Singh to avoid recurrence of such disputes / complaints. A report be sent to this Court by 5<sup>th</sup> June, 2017. The respondent is also advised to organize workshops / programmes on rights of persons with disabilities and the issues concerning them for officers and the employees of DTC. The matter concerning grievances of Sh. Sharma be also investigated keeping in view the entire facts including those brought out above and it be ensured that Sh. Sharma is not harassed. He should be allowed to work in a congenial environment. This Court be informed of the action taken in the matter within 3 months from the date of receipt of this order as required under Section 81 of the Rights of Persons with Disabilities Act (RPwD) Act, 2016.

The matter is disposed of accordingly.

Given under my hand and the seal of the Court this 26<sup>th</sup> day of May, 2017.



dl

  
(T.D. Dhariyal)

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