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In the Court of Commissioner for Persons with Disabilities
National Capital Territory of Delhi
25- D, Mata Sundari Road, Near Guru Nanak Eye Centre, New Delhi-2
Phone-23216002-04, Telefax: 23216005
[Vested with power of Civil Court under the Persons with Disability (Equal
Opportunity, Protection of Rights and Full Participation) Act, 1995]

Case No. 4/1462/2016-Wel./CD/2597-98

Dated: 30/3/17

In the matter of:

Sh. P.S. Dhama,
President, Joint Front of PwD & OBC Teacher's Association Delhi,
G-63, MCD Colony Dhaka, Kingsway Camp,
New Delhi-110009

..... **Complainant**

Versus

The Director (Personnel),
North Delhi Municipal Corporation,
4th Floor, SPMC Civic Centre,
New Delhi-110002

..... **Respondent**

Date of hearing: 23/03/2017

Present: Sh. P.S. Dhama, Complainant

Sh. Pankaj Sharma, Asstt. Commssioner/CED, Ms. Nirmala,
Dy. Director(Education), HQ on behalf of the respondent.

ORDER

The complainant, a person with 40 % locomotor disability vide his complaint dated 05.11.2016 submitted that he was appointed as teacher on 15.07.1994 in O.H. sub-category of persons with disabilities. He alleged that after the order of Commissioner for Persons with Disabilities, he was promoted to the post Principal (Pry.) on adhoc basis on 11.02.2009 and has not been regularised so far. He also alleged that despite the order of Commissioner for Persons with Disabilities to follow the seniority list for giving look after charge to the post of School Inspector, one Sh. Mahipal Singh, who is junior to him, is still working as School Inspector. The complainant has prayed that he may be granted look after charge to the post of School Inspector (General) as the same is an identified post for persons with locomotor disability. His second prayer is to regularise his adhoc promotion to the post of Principal.

2. The complaint was initially taken up with the East Delhi Municipal Corporation, Education Deptt., HQ, who vide their letter dated 25.1.2017, informed that the complainant was working in the North Delhi Municipal Corporation and hence no action on the grievance of the complainant could be taken by the East Delhi Municipal Corporation.

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3. The North Delhi Municipal Corporation, Education Deptt., HQ vide their letter dated 14.02.2017 submitted that they have sought clarification from DOP&T on whether the reservation for persons with disabilities in promotion to the post of Head Master, which is a Group-B post, is applicable or not in the light of the judgement of the Hon'ble Supreme Court. The said clarification is still awaited. In the meantime as per the current instructions, there is no reservation for persons with disabilities for promotion to Group-B posts. It is further submitted that the look after charge of School Inspectors (SI-LAC) is purely a temporary arrangement to deal with the short falls of school Inspectors for smooth functioning of the Department. In the North Delhi Municipal Corporation, Education Deptt., HQ, the look after charge has been assigned to senior most eligible Head Masters. All the School Inspectors (SI-LAC) working in the North Delhi Municipal Corporation are senior to the complainant.

4. As regards Sh. Mahipal Singh (VH), it has been stated that he was assigned the charge of School Inspector on Current Duty Charge (CDC) by Central Establishment Department(CED) of North Delhi Municipal Corporation who had been asked to clarify. The representative of North Delhi Municipal Corporation, Education Department clarified that the expression 'promotion' has inadvertently been mentioned in Para 7 instead of 'Current Duty Charge'(CDC). It has also been stated that the promotion to the post of School Inspector which is a Group-A post, is to be carried out by the Central Establishment Deptt.(CED), who have made their submissions vide their letter dated 16.3.2017. The Central Establishment Deptt.(CED) in the said letter have inter-alia submitted that complainant was promoted to the post of Headmaster, category B w.e.f. 01.01.2006 on ad-hoc basis under reservation for persons with disabilities. However, as per the instructions of DoP&T, there is no reservation for persons with disabilities in promotion to Group B posts. Therefore, the ad-hoc promotion of the complainant and Sh. Mahipal Singh(VH) to the post of Headmaster, selection category 'B' post needs review /examination with reference to reservation for persons with disabilities. It has further been stated that a regular departmental action No. 1/15/2016 for major penalty is pending against the complainant since 18.3.2016. Whereas the case for current duty charge/LAC to selection category 'A' post of School Inspector (Gen.) entry level in PB-3 in the present scenario, is not covered under the instructions/guidelines of DoP&T. As regards the case of Sh. Mahipal Singh (VH), the only person junior to the complainant in North Delhi Municipal Corporation, who has been assigned current duty charge to the post of School Inspector (Gen.) in his own pay scale of Head master, will be taken up subsequently.

5. The complainant submitted that his promotion to the post of Principal was against the backlog of reserved vacancies for persons with disabilities (OH) which belong to the period when the post of Principal was in Group C. The said promotion was given to him following the directions of the then Commissioner for Persons with Disabilities, Govt. of Delhi.

It is seen that the then Commissioner for Persons with Disabilities vide his order dated 12.10.2015 had observed, "there is a need therefore to prepare a seniority list of Principals/teachers and if there is a need to appoint School Inspectors on look after charge in exigencies of public service, it should be done on the basis of seniority of Principals/teachers".

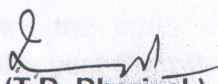
7. Admittedly, at least one person namely Sh. Mahipal Singh, a person with disability (VH), who is junior to the complainant, is working as School Inspector on Current Duty Charge(CDC). The respondents should have given the justification for his continuance in the post of Inspector on Current Duty Charge(CDC) despite being junior to the complainant and the observation of this Court, and why the complainant who is senior to Sh. Mahipal Singh was not considered.

8. In the light of the facts and circumstances of the case, respondent is directed to examine the matter thoroughly taking into consideration the representation of the complainant and other relevant facts and take a final view on his prayer explaining the reasons for giving the Current Duty Charge to a junior person in preference to the complainant within 60 days from the date of receipt of this order and inform the complainant by way of a speaking order under intimation to this Court. As regards regularization of ad-hoc promotion of the complainant to the post of Principal, the same be considered as per extant provisions of the relevant rules and instructions issued by the appropriate Government. It may be ensured that no discrimination be meted out to the complainant on the ground of his disability as provided under section 47 of the Persons with Disabilities Act, 1995.

The matter is disposed of accordingly.

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




(T.D. Dhariyal)

Commissioner for Persons with Disabilities

Court of Commissioner (Disabilities)

National Capital Territory of Delhi

Room No. - 1

25-D, Mata Sundari Road, New Delhi-02

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