

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-110002.

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[Vested with Powers of Civil Court under the Persons with Disabilities (Equal Opportunity, Protection of Rights and Full Participation) Act, 1995]

Case No. 4(480)/2013-Wel/CD/1280-82

Dated: 14.10.14

In the matter of

Dr.Nitesh Kumar Tripathi

H.No.C-184, Begum Vihar Extn.

Begumpur, Delhi-86

..... Petitioner

Versus

Sh.P.K.Gupta

Commissioner North MCD

4th Floor, Dr.S.P.M Civic Centre

Jawaharlal Nehru Marg

New Delhi-2

Dr.D.K.Seth

Office of the Director Hospital Administration

North Zone

12th Floor, Dr.S.P.M Civic Centre

Jawaharlal Nehru Marg

New Delhi-2

..... Respondents

ORDER

1. A representation was received from Dr.N.K.Tripathi working as GDMO on contractual basis in Dr.S.S.V Polyclinic Burari stating that he was not being given facilities/amenities/allowances etc as per the instructions of the Government of India and the recommendations of the Sixth Central Pay Commission the following are the grievances of the petitioner : (i) no wash basin (ii) non availability of pure drinking water in Doctor's room (iii) slippery floor (iv) non payment of salary in time (v) request for transfer to school health scheme (vi) non payment of Arrear for February and March 2014

(vii) no decision on the request of extension even after one month (viii) regarding release of conveyance allowance, phone allowance, newspaper allowance, contingency allowance etc (ix) non receiving of any order for availing extra Casual Leave, Special Leave (x) vehicle loan @ 6% by employer, according to the recommendation of 6th Central Pay Commission, (xi) cost of calliper and other assistive devices is to be paid by the employer according to the recommendation of 6th Central Pay Commission (xii) liaison officer/Grievance Redressal Cell for persons with disabilities has not been established till date (xiii) due to non issuing of extension order salary slip for the month of August 2014 could be forwarded (xiv) extension of service for 1 year instead of 6 months due to which one day salary is deducted after every six months (xv) non issuance of identity card and health card.

2. On receipt of the representation the Director Hospital Administration was requested to send his comments and accordingly a report was received from Dr.D.K.Seth indicating in seriatim that the following has been done : i) disabled friendly toilet has been constructed and wash basin is being installed. ii) pure drinking water is available. iii) engineering Department is working on it. (iv) salary of the contractual employee had been paid till date (v) request rejected by the competent authority (vi) arrears have been paid till date (vii) contract had been renewed by the competent authority for 6 months w.c.f 14.8.14. (viii) not admissible to contractual employees. (ix) special CL for 4 days is allowed. 10 days Special CL in a calendar year subject to exigencies of work for the differently abled persons for participating in conferences/seminars/training/workshops related to disability and development to be specified of Ministry of Social Justice and Empowerment are not admissible to contractual employee. (x) vehicle loan @ 6% by employer is not admissible to contractual employee. (xi) cost of calliper and other assistive devices are paid by employer to regular employees only and not to the contractual employees. (xii) liaison officer for such purpose is the immediate reporting officer. In this case Resident Medical Superintendent Burari Polyclinic is the Liaison Officer. (xiii) salary has been paid. (xiv) it is a policy matter and only six months extension is given. (xv) health card is not admissible to contractual employee. Identity card will be issued to Contractual Employee on his request. A copy of the reply was sent to Dr.N.K.Tripathi who filed his replication on 10.10.14 which states Quote "(1) Under point no.1 Disabled friendly toilet has not been constructed in room no 4 for which I had already filed an application before Add DHA on 22nd August 2014 through RMS of this Polyclinic. Meanwhile the MCD has installed two weak pipes in that toilet which is so much narrow that I have difficulty to use the same and

you may please send an observer to inspect and make the access audit of this building while I had already provided the guidelines of the CCPD for making accessible buildings at public places. No wash basin has been installed till date. (2) Under the point number 2 no arrangement for the pure drinking water has been made and I have to purchase the water from the market for the drinking purpose and it cost around Rs.1000/- in a month while it is well understood that there is no imagination of life without pure drinking water.(3) No action has been taken from making disabled friendly floor with tactile floor under the assurance given under point no.3. (4) Under the point no.4 salary has not been paid timely even in a single month on last working day of the month and salary for the month of September 2014 has not been paid till date and you may confirm all these facts after going through the records of my salary. (5) According to the direction of the DoPT the PwD employees must be posted according to their comfort and accessibility but under the point no.5 this request has also not been considered. (6) Nothing has been done under the point no.7, 8 and 9 and the facility of the special CL as well as CL and its calculation in a calendar year has not been considered while according to the recommendations of the Sixth CPC as well as the directions of the CATS the facilities to the employees with disabilities cannot be denied on the nature of the service and there are several directions as well as judgments of the Apex Court for the same work and same pay and Delhi Government has also issued a circular for same in the year 2013 which copy I have already submitted before this Court of Law. (7) According to the recommendation of Sixth CPC I must be provided assisting devices but under the point no. 10 and 11 this has been denied while according to the PwD Act 1995 as well as Sixth CPC there is no discrimination among the PwD employees on the nature of the service same there is no universal law of same work and same pay. (8) Liaison Officer must be at least 2 rank senior in service but in my case this has not been done. Please take action according to the CCS Rules as well as PwD Act 1995 (as per the reply under the point no.12 of DHA reply. (9)The service of the contractual teacher is renewed after 1 year in North MCD and in GNCTD same formula was adopted for the GDMO on contract basis and due to the current practice of the sixth month duration for renewal course and expense of more than Rs.500/- on stamp duty and documentation and deduction of 1 day salary which is a loss of money for me. So 1 day deduction of salary must be compensated by the CL and this amount of 1 day salary must be released to me without further loss of the time (As per reply under the point no.14 of the DHA reply). (10) Health Card of medical facilities are applicable to the contractual GDMO in GNCTD and PwD needs extra medical care due to

disability so please take immediate action for using the health facilities to me and my dependent as it's a fundamental right of the employee. ESIC Health facilities is being provided to the employees working in the private sector than why not North MCD cannot do the same (As per the reply of under the point no.14 of the DHA reply)." unquote.

3. I have perused the representation, reply, comments of the respondent and also the replication filed by the petitioner. It is a case in which the concerned authorities of the North Delhi Municipal Corporation should have ensured to provide all the facilities/amenities/salary/allowances in time which does not seem to have done despite reminding all the concerned officers and even after the senior officers present in the hearing in the Court were requested to take special care of the needs of the petitioner. The Commissioner North Delhi Municipal Corporation is hereby directed to ensure that all the infrastructural facilities like wash room etc (suitable for persons with disabilities) and other allowances; medical facilities and other benefits as applicable to regular doctors including special casual leave are provided/allowed in consonance with the instructions issued by the Department of Health and Family Welfare Government of NCT of Delhi vide no.F.70/38/2005-H& FW/7030-36 dated 15.10.09 (A photocopy of the order enclosed). It should also be ensured that the petitioner gets his salary on 1st of every month and that he faces no other problem while discharging his duties in the Polyclinic. **A compliance report is required to be filed within 15 days i.e by 31.10.14.**

4. Ordered accordingly.



Given under my hand and the seal of the Court this 14th day of October 2014.

K.S. Mehra
(K.S. Mehra) 14/10/14

Commissioner

Court of Commissioner (Disabilities)
National Capital Territory of Delhi
Room No. - 1
25-D, Mata Sundari Road, New Delhi-02