

132

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  
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(Vested with powers of Civil Court under the  
Rights of Persons with Disabilities Act, 2016)

Case No. 4/511/2013-Wel/CD/ 3907 - 10

Dated:- 17/01/2018

In the matter of

Sh. Pirappa S/o Sh. Hemlappa,  
H.No. 65, WU 43/12, Jagat Mata Khushta Ashram,  
Tilak Nagar, New Delhi-110018.

.....Complainant

Versus

The Director In Chief(DEMS),  
North Delhi Municipal Corporation,  
Dr. SPM Civic Centre,  
New Delhi-110002.

.....Respondent

Case No. 4/1324/2016/Wel/CD

In the matter of:

Sh. Pirappa S/o Sh. Hemlappa,  
H.No. 65, WU 43/12, Jagat Mata Khushta Ashram,  
Tilak Nagar, New Delhi-110018.

.....Complainant

Versus

The Director in Chief (DEMS),  
North Delhi Municipal Corporation,  
4<sup>th</sup> Floor, Dr. S.P.M. Civic Centre,  
New Delhi-110002.

.....Respondent

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

**Case No. 4/1481/2016-Wel/CD**

In the matter of :

Sh. Bimbadhar Sethi,  
General Secretary,

Vandemataram Swasth Kust Rogi Majdoor Punarvash Sangathan,  
Vandematram Bhawan, Room No. 01,  
Leprosy Complex, Shahdara,  
New Delhi-110095.

....Complainant

Versus

The Commissioner,  
North Delhi Municipal Corporation,  
4<sup>th</sup> Floor, Dr. SPM Civic Centre,  
New Delhi-110002.

..... Respondent

Date of Hearing : 11.01.2018

Present: Sh. Pirappa, Sh. Bimbadhar Sethi, Akela Anand & Indrajeet  
Kumar for Complainant  
Sh. Ramider Singh, A.C. (DEMS), Sh. J.P. Kaushik, SSA.

**ORDER**

The issue involved in the first case of Sh. Pirappa has since been resolved; but order has not been passed. In the next two cases the issues involved and the respondents are the same and therefore, all the three cases are being disposed of by a common order.

**4/511/2013-Wel/CD**

Sh. Pirappa, a leprosy cured person in his complaint which was forwarded by Dr. Brahm Dutt, President, Federation of Leprosy Organizations submitted that he was working in South Delhi Municipal Corporation (SDMC) as Safai Karamchhari since 27.05.2003. 39 Safai

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

Karamcharis who joined almost the same time had been regularized. However, he had not been regularized.

2. The matter was taken up with SDMC and after exchange of a number of correspondences, the complainant was regularized w.e.f. 03.11.2015.

**Case No. 4/1324/2016/Wel/CD**

3. Vide his another complaint, Sh. Pirappa submitted that he had not been paid the outstanding dues from the year 2003 to 2015. Subsequently, vide his letter dated 08.06.2017, the complainant submitted that while others were regularized from back date, he was regularized from the current date. He, therefore, requested that he should be regularized from 2004 and should be paid the salary accordingly.

4. The matter was taken up with the respondent vide notice dated 31.07.2017.

**Case No. 4/1481/2016-Wel/CD**

5. The complainant vide his complaint dated 26.11.2015 submitted that the North Delhi Municipal Corporation (North DMC) was regularizing the leprosy cured daily wage Safai Karamcharis from the current date instead of 01.04.2006, which was unjustified. He requested that the

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



leprosy cured Safai Karamcharis should be regularized w.e.f. 01.04.2006 so that they can get the seniority and financial benefits.

6. The complaint was taken up with the respondent vide communication dated 23.12.2016 followed by reminders. A number of hearings were also held alongwith other cases namely 4/520/2013, 4/1110/2015, 4/1170/2015 & 4/1171/2015. Those cases were disposed off vide a common order dated 09.05.2017 as the question therein was regularization of the services and reservation of 3% vacancies. In Para 10 of that Order it was mentioned that this case would be dealt separately as it involved the question of date of regularization of those who were engaged as daily wagers after 31.03.2003, which was also the subject matter of case No. 4/1481/2016/Wel/CD. Vide RoP Dated 16.08.2017 in Case No. 4/1324/2016-Wel/CD, it was observed that it would amount to discrimination if the leprosy cured persons who were engaged as Daily Wager Safai Karamcharis from 01.04.2003 onwards were not regularized either from 01.04.2006 or 01.04.2007. The RoP dated 16.08.2017 is reproduced below:

*"The complainant submitted that he was engaged as a daily wager as safai karamchari under physically handicapped quota vide the then MCD's letter dated 28.04.2003. He joined on 27.05.2003. He was regularised in the post of Swachta Karamchari w.e.f. 11.10.2015. On the other hand 153 leprosy cured persons who were engaged as Safai Karamcharis on or*

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

before 31.03.2003, were regularised w.e.f. 01.04.2006 vide orders issued on different dates. The persons who were engaged as daily wager safai karamcharis after 31.03.2003 including the complainant, are being regularised with immediate effect i.e. the date of issue of the office order by the concerned MCD. Since he was also appointed under the same policy of MCD against the quota of persons with disabilities, he should not be treated differently from those who were appointed on or before 31.03.2003. Therefore, he should also be regularised w.e.f. 01.04.2006.

2. The representatives of the respondent submitted that the leprosy cured persons who were engaged as Safai Karamcharis against the quota of persons with disabilities on or before 31.03.2003 were regularised from a fixed date i.e. 01.04.2006 alongwith other daily wagers with the approval of the then Commissioner, MCD. The decision to regularise the leprosy cured daily wagers engaged against the quota of persons with disabilities after 31.03.2003, was taken under the resolution of North Delhi Municipal Corporation No. 68 date 16.06.2015, which reads as under:-

"Resolved that as proposed by the Commissioner in his letter No. F.33/DEMS/NDMC/26/C&C dated 16.04.2015 and recommended by the Standing Committee vide its Resolution No. 15 dated 27.05.2015, approval for regularisation of services of 74 Leprosy Cured Daily Wager Swacchchhata Karamcharies of EMS Deptt., North DMC, as detailed in the aforesaid letter, be accorded".

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



3. In view of the above, being a policy decision duly approved by the Corporation, no other date can be assigned for regularisation of the said 74 leprosy cured daily wager Safai Karamcharis, including the complainant. Any such matter relating to the Safai Karamcharis is dealt with by the Labour Welfare Department of the Corporation in consultation with the Law and Finance Department.

Year of engagement	Due date for regularization
01.04.1994 to 31.03.1996	01.04.2003
01.04.1996 to 31.03.1998	01.04.2004
01.04.1998 to 31.03.2000	01.04.2005
01.04.2000 to 31.03.2003	01.04.2006

4. It is observed that the leprosy cured persons were engaged as daily wager Safai Karamcharis in the then MCD under the provisions of the same legislation i.e. Persons with Disabilities Act, 1995. Therefore, it is logical that those who were engaged after 31.03.2003 are also regularised on the same principles as in respect of those who were engaged on or before 31.03.2003. The later were regularised in the following sequence:

5. It would therefore be reasonable to consider the leprosy cured persons who were engaged as daily wager Safai Karamcharis from 01.04.2003 onwards for regularisation either from 01.04.2006 or 01.04.2007. Otherwise the discrimination against them appears apparent.

6. In the light of the above, the respondent is advised to consider the complainant and similarly placed other leprosy cured

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

*Safai Karamcharis for their regularisation in the manner stated above. Action taken in the matter may be intimated within 3 months from the date of receipt of these proceedings. A copy of these proceedings is being marked to Additional Commissioner (Labour), North Delhi Municipal Corporation for consider expeditious action within the time frame indicated above".*

7. On the next date of hearing on 11.01.2018, the representatives of the respondent submitted that in compliance with the directions of this Court vide RoP dated 16.08.2017, a proposal for recommendation of the Additional Commissioner (Labour), North DMC for fixing the effective date for regularization of the services of Sh. Pirappa and other similarly placed Leprosy Cured Daily Wager Safai Karamcharis who were engaged after 31.03.2003 in the zones was prepared and sent to Additional Commissioner (Labour). The Additional Commissioner (Labour) though agreed in principal, yet did not specify the effective date for regularization. The file was then referred to the Law Department of North DMC for legal opinion. That Department advised that the effective date should be decided by the Additional Commissioner (Labour).

8. They further stated that North DMC has drafted a preamble for seeking approval of the House of the Corporation and the file has been submitted. However, the effective date of regularization is to be

Court of Commissioner (Disabilities)  
National Capital Territory of Delhi  
Room No. - 1  
25-D, Mata Sundari Road, New Delhi-110042

recommended by the Additional Commissioner (Labour) and to be approved by the House.

9. Sh. Bimbadhar Sethi, the complainant in case No. 4/1481/2016-Wel/CD submitted that all the 286 Leprosy Cured Daily Wager Safai Karamcharis were selected for engagement by common and single decision. Merely because the date of joining of some of them happened to be a few days later than 31.03.2003, they should not be denied the benefit that their counterparts who joined before 31.03.2003 were given. As all of them joined in the year 2003, they should be regularized w.e.f. 01.04.2006 irrespective of whether they joined before or after 31.03.2003.

10. As already observed in Para 4 of the RoP dated 16.08.2017, the respondent regularized the daily wager safai karamcharis from the 1.04.2003, 01.04.2004, 01.04.2005 & 01.04.2006. The next date in the sequence, if required can justifiably be 01.04.2007. If the complainants in these cases or any other leprosy cured persons who were engaged as daily wager safai karamcharis in the three Municipal Corporations are not given the same treatment as their counterparts who joined on or before 31.03.2003, it prima facie would amount to discrimination against a particular group of Leprosy Cured Daily Wager Safai Karamcharis. As the matter is hanging fire for a very long period of time, respondent should expedite the decision in the matter so that the discrimination is

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




not prolonged. It is once again recommended that the Leprosy Cured Daily Wager Safai Karamcharis who were appointed after 31.03.2003 be regularized w.e.f. 01.04.2006 or 01.04.2007 within a period of three months from the date of receipt of this order. The respondent is further advised to direct the concerned officers to coordinate with the Additional Commissioner (Labour) for whose recommendation the final decision is stated to be held up and ensure an expeditious decision so that the complainants and similarly placed Leprosy Cured Daily Wager Safai Karamcharis are not subjected to discrimination and deprivation of their legitimate rights. Action taken on the recommendation be intimated to this Court within three months from the date of receipt of this order as required under section 81 of the Rights of Persons with Disabilities Act, 2016.

11. The complaints are disposed off.

12. Given under my hand and the seal of the Court this 17<sup>th</sup> day of January, 2018.



  
( T.D. Dhariyal ) 17.1.18

**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-02