

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
[Vested with powers of Civil Court under the
Rights of Persons with Disabilities Act, 2016]

Case No. 4/ 1622/2017 -Wel/CD/ 3557-58

Dated: 27/12/17

In the matter of:

Sh. Satpal Singh,
Plot No. 13, MCD Flats, Phase-II,
Nimdi Colony, Delhi-110052.

..... Complainant

Versus

The Commissioner,
North Delhi Municipal Corporation,
Dr.S.P.M. Civic Centre,
New Delhi-110002.

.....Respondent

Date of hearing: 11.12.2017

Present

Sh. Satpal Singh, Complainant.

Sh. B.R. Meena, S.O. Sh. Dinesh Ram, S.I., Sh. R.
Purshottam, T.R., LDC on behalf of Respondent.

ORDER

The above named complainant, a person with 90% locomoter disability vide his complaint dated 11.04.2017 submitted that he was appointed as Assistant Librarian on 08.11.2010 in the pay band of Rs. 5200-20200/- (GP Rs. 2400/-) whereas the Grade Pay of the post is Rs. 4200/-. Other Assistant Librarians were getting Grade Pay of Rs. 4200/-

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after implementation of 6th CPC. As per the information obtained by him under the RTI, the Additional Director / PIO, North DMC vide letter No. D/ADE/Co-Ord./HQ/2014/1168 dated 30.01.2014 informed that Sh. Shiv Kumar Kapil, Narela Zone, Assistant Librarian was in the pay band of Rs. 9300-34800/- plus Grade Pay Rs. 4600/- and the complainant was also in the post of Assistant Librarian in the pay band of Rs. 5200-20800+ Grade Pay Rs. 2400/-. The complainant also enclosed the pay fixation order in respect of Sh. Shivkumar Kapil, Assistant Librarian which indicates his GP as Rs. 4600/-. The complainant submitted that he was working in the post of Assistant Librarian for the last seven years yet his request has not been considered. He had requested for grant of GP of Rs. 4200/- to the Commissioner, North DMC on 04.01.2014 which was received on 07.01.2014 however, he has not been granted his entitled GP till date. He requested that he be given grade pay of Rs. 4200/- from the date of his appointment as Assistant Librarian w.e.f. 08.11.2010 and promoted to the next higher post.

2. The complaint was taken up with the respondent vide communication dated 12.06.2017 followed by reminder dated 18.07.2017. As there was no response from the respondent, a hearing was scheduled on 24.10.2017.

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3. During the hearing on 24.10.2017 none appeared on behalf of the respondent. It was observed that the notice of hearing dated 12.06.2017 was sent to Commissioner, North Delhi Municipal Corporation by Speed Post alongwith the enclosures i.e. the copy of the complaint filed by Sh. Satpal Singh. However, the P.S. in North Delhi Municipal Corporation (North DMC) on 15.06.2017 recorded in the original notice that "enclosures have not been received" and therefore he decided to return the said original notice to the Dy.Commissioner for Persons with Disabilities on the same day i.e. 15.06.2017. Surprisingly, the envelope in which the original Notice was received back on 28.06.2017, bore Speed Post Diary No. 926 dated 12.06.2017. After receiving back the said original notice, the enclosures containing 13 pages alongwith a copy of the Notice dated 12.06.2017 was again sent to North DMC vide this Court's letter dated 18.07.2017. However, still there was no response. That is how the hearing came to be scheduled on 24.10.2017.

4. The concern of this Court that neither any response was received nor any one appeared to represent the Commissioner, North DMC on 24.10.2017 was conveyed to the Commissioner, North DMC and he was requested to look into the matter personally and ensure that the complainant who is a persons with 90% disability was not deprived of his right. The possibility of a deliberate attempt by someone to delay /

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avoid submission of reply or taking appropriate action on the complaint of Sh. Satpal Singh was also pointed out as it is unusual for any recipient to return the original notice to the sender merely on the ground that the enclosures are not received. Commissioner, North DMC was further requested to investigate the matter.

5. The provision of Section 93 of the Rights of Persons with Disabilities Act, 2016 which provides for punishment for failure to furnish information which may extend to Rs. 25000/- in respect of each offence and in case of continued failure or refusal, with further fine which may extend to Rs. 1000/- for each day of continued failure or refusal was also brought to the notice of Commissioner, North DMC vide record of proceedings dated 30.10.2017".

6. On the next date of hearing on 11.12.2017, representatives of the respondent submitted a letter dated 29.11.2017 as per which the complainant was appointed as School Attendant initially as daily wager and then regularised as such in the pay scale of Rs. 2550-55-2260-60-3200 w.e.f. 01.04.1999. He was appointed as Assistant Librarian in compliance of the judgement dated 11.12.2009 passed by the Hon'ble CAT in TA No. 1040/2009 in the pay band of Rs. 5200-20200 plus Rs.2400/- as Grade Pay w.e.f. 08.11.2010 as per advice of the Finance Department. His request for grant of Grade pay of Rs. 4200/- is under

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consideration. A copy of the said letter was given to the complainant during the hearing as the respondent had not supplied a copy of the same to him.

7. The complainant submitted that as per Office Order No. D./6559/DDE/Edn./HQ/Admn.2016 Dated 15.02.2016, the pay scale prescribed for primary school teachers would apply to Asstt. Teachers (Nursery / Physical) Art & Craft and Music as also to the Resource Assistants in CRC, R.K. Puram and Assistant Librarians of the Department. The complainant also submitted that there are four Assistant Librarians in North DMC including him. While all the three Assistant Librarians have been granted the Grade Pay of Rs. 4200/- from retrospective effect, he is being denied the benefit. He further stated that an Assistant Librarian in South Delhi Municipal Corporation (SDMC) is also getting the grade pay of Rs. 4200/-.

8. Representatives of the respondents confirmed that the pay scale of Primary School Teacher in North DMC is Rs. 4200/-. However, while the pay scales of teachers were upgraded, the same was not done in the case of Assistant Librarians etc. They also added that the pay scales of all the Assistant Librarians are to be decided by the House as it involves upgradation of the pay scale of Assistant Librarian in North

DMC.
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9. On Perusal of the record, it is prima facie seen that the complainant was appointed as Assistant Librarian in 2010 on the directions of Hon'ble CAT and was given the Grade Pay of Rs. 2400/- whereas as per Communication No. D/ADE/R&E/918 Dated 14.08.2013, the Grade pay of Assistant Librarian is Rs. 4200/-. If that be so and in light of the fact that the all other Assistant Librarians in North DMC and South DMC have been granted the Grade pay of Rs. 4200/-, denial of the same to the complainant clearly amounts to discrimination as the respondent has not given any cogent reason and supporting documents justifying continued deprivation of an entitlement to the complainant who holds the post of Assistant Librarian on equal basis with other Assistant Librarians in the same establishment.

10. In the facts and circumstances of the case, the respondent is directed to finalise the matter and grant the Grade pay of Rs. 4200/- to the complainant on equal basis with other Assistant Librarians and pay the arrears due to him within a month from the date of receipt of this order and ensure that the complainant is not subjected to any kind of discrimination and harassment on the ground of his disability and because he was approached this Court for redressal of his grievances. He may also be considered for promotion to the next higher post if

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eligible as per the relevant rules and instructions of DoP&T within 3 months from the date of receipt of this order.

11. I would like to reiterate that from the record perused during the hearing of this case, there were reasons to believe that the complainant's case has been deliberately delayed at different stages. It will be in the fitness of things for me to record my observation that the conduct and the conversation of the representatives appearing for the respondent with the complainant during the hearing was acrimonious and arrogant leaving the complainant frightened and scared of putting forth his submissions fearlessly in their presence. I, therefore, recommend that the Commissioner, North DMC should personally look into the matter and peruse the relevant papers / files so that the decision in the matter is not delayed now and the complainant is not denied any benefit that he is entitled to under the rules and he is not made to run from pillar to post. It may also be ensured that the complainant is not subjected to any harassment. The Action Taken Report be submitted to this Court within three months from the date of receipt of this Order under intimation to the complainant as required under Section 81 of the

Act
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The matter is disposed of accordingly.

Given under my hand and the seal of the Court this 27th day
of December, 2017.



(Signature)
(T.D. Dhariyal) 27/12/17

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