

**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. 4/1659/2017-Wel./CD/ 1910 - II

Dated: 20/09/2017

Case No. 4/1702/2017-Wel./CD/

In the matter of:

Sh. Mir Singh
ATI, PTNO-50025, DTC,
Admn, Deptt Hqr. I.P. Hqr
New Delhi-110002

..... Petitioner

Versus

The Chairman-cum-Managing Director
Delhi Transport Corporation
I.P. Estate, New Delhi-110002.

..... Respondent

Date of Hearing 13.09.2017

Present: Sh. Mir Singh(ATI) Complainant.
Sh. Pawan Kumar Singhal, DM (Personnel), on behalf
of Respondent.

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

Order

The above named complainant, a person with 40% locomotor disability vide his complaint dated 09.05.2017 submitted that he had submitted a complaint on 22.12.2016 and 07.03.2017 regarding payment of arrears of Transport Allowance and for promotion to the next higher post w.e.f. 27.06.2016. DTC paid him Rs. 63,288/- on account of arrears of Transport Allowance and also deducted income tax of Rs. 2450/- in the month of February, 2017. As per the decision of the Grievance Committee, he was given Transport Allowance @ of Rs. 600+DA which is not correct as per Govt. of India OM 21(2)/2008-E-II(B) dated 29.08.2008. The complainant requested that he should be paid Transport Allowance at double of Rs. 1600+DA thereon from February, 2009 to January, 2017 which works out to Rs. 2,65,176+10% interest and he should be promoted from 27.06.2016. The reminder dated 14.08.2017 submitted by the complainant was inadvertently also registered as case No. 4/1702/2017-Well/CD which will stand disposed of with this order.

2. As the complaint was delayed, a hearing was scheduled on 13.09.2017. During the hearing, the complainant reiterated his written submissions and stated that he acquired 40% locomotor disability on 30.01.2009 i.e. the date he was issued the disability certificate by Dr. Ram Manohar Lohiya Hospital, New Delhi. He claimed that he is entitled to a transport allowance at double the normal rate of transport allowance of Rs. 1600+DA thereon in accordance with clause-II of DTC's circular No. Admn-I-&(42)/2013 dated 22.03.2013 as his pay was Rs. 9580/- i.e. more than Rs. 7440/- in the pay band of Rs. 5200-20200 with grade pay of Rs. 2400/- as on 01.02.2009.

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3. With regard to his promotion to the post of Traffic Inspector (TI), the complainant submitted that he should be promoted w.e.f the date he completed 3 years as ATI i.e. from 26.06.2016 against a reserved vacancy for persons with disabilities.

4. Sh. P.K. Singhal, Dy. Manager, Personnel on behalf of the respondent submitted that although there is no transport allowance in DTC for its employees, yet DTC has extended the facility of transport allowance at double the normal rate to its employees with disabilities vide circular dated 22.03.2013. A Grievance Committee of six senior officers of DTC was constituted which decided that the complainant is entitled to Transport Allowance @ of Rs. 600+DA as per column iii of the said circular as his pay was in the pay band below Rs. 7440/-. On grant of MACP with the grade pay of Rs. 4200/- w.e.f 21.11.2015, the complainant is being paid Transport Allowance at double the normal rate of Rs. 1600/-.

5. As regards promotion to the post of Transport Inspector, following an order of Hon'ble Supreme Court regarding reservation in promotion to employees belonging to SC/ST, the matter is being examined. Once the decision is taken in the matter, the claim of the complainant to promotion to the post of Transport Inspector against reserved vacancies for persons with disabilities will be considered in accordance with the instructions on the subject.

6. In my view, the DTC's circular dated 22.03.2013 which is the reproduction of the Department of expenditure, Ministry of Finance, OM 21(2)/2008-E-II(B) dated 29.08.2008, provides that an employee below the Grade Pay of Rs. 4200/- who is in receipt of pay below Rs. 7440/- in a pay band, would be entitled to a Transport Allowance of Rs. 600+DA

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there on in A-1/A Cities. Clause II of the said circular/OM provides that employees who draw grade pay below 4200/- but drawing the pay of Rs. 7440/- and above in a pay band would be entitled to a Transport Allowance of Rs. 1600+DA thereon in A-1/A Cities. Since admittedly the complainant who is a person with locomotor disability, was drawing the pay of Rs. 9580/- i.e. above Rs. 7440/-, should have been paid the Transport Allowance at double the normal rate of Rs. 1600+DA thereon w.e.f February, 2009.

7. In view of the above, the respondent is advised re-examine the matter and pay the Transport Allowance to the complainant and other similarly placed employees with disabilities accordingly. If the respondent still has any doubt about the interpretation of the OM dated 29.08.2008 of Ministry of Finance, Department of Expenditure and DTC's circular dated 22.03.2013, the respondent may get the same clarified from the Finance Department, Govt. of NCT of Delhi/Department of Expenditure, Ministry of Finance expeditiously and take action accordingly. The claim of the complainant for promotion to the post of Transport Inspector against a reserved vacancy for the persons with disabilities be considered in accordance with the instructions of DOP&T vide their OM No. 36035/3/2004-Estt(Res) dated 29.12.2005 and action taken in the matter be submitted within 3 months from the date of receipt of this order as required under Section 81 of the Rights of Persons with Disabilities Act, 2016.

8. It may also be noted that Section 89 and 90 of the Rights of Persons with Disabilities Act, 2016 provide for penalties for contravention of the provisions of the Act or Rules or Regulations made there under and Section 93 of the said Act provides for punishment for failure to furnish information.

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9. The complaint is disposed off accordingly.

10. Given under my hand and the seal of the Court this 20th day of September, 2017.



Court of Commissioner (Disabilities)
National Capital Territory of Delhi
(T.D. Dhariyal)
25-D, Mata Sundari Road, New Delhi-02

State Commissioner for Persons with Disabilities