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In the Court of The 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]

15/5/17

Case No. 4/867/2015-Wel./CD/516-517

Dated: 15/3/17

In the matter of :
Sh. Nepal Singh
569, Gali No. 9, Phase IV
Gautam Vihar, Shiv Vihar, Delhi - 110094.

.....Complainant

Versus

The Commissioner
East Delhi Municipal Corporation
419, Udyog sadan Patparganj Industrial Area,
Delhi - 110092

.....Respondents

Date of hearing: 08.05.2017
Present: Sh. Nepal Singh, Complainant

ORDER

Despite notice of hearing dated 20.02.2017, none appeared on behalf of the Commissioner EDMC on 15.03.2017 to present the case. Even today, Neither the respondent nor any one on his behalf has appeared not only in this case but also in an other case no which was listed for hearing. It is also observed with concern that Sh. Pawan Kumar, ASI, Ward-265, in response to the notice of hearing dated 20.02.2017, has informed that Sh. Nepal Singh has given an agreement about his complaint. According to the complainant, he signed on the paper regarding some fake complaint. That has nothing to do with his complaint in this court. A copy of the said bunch of papers is enclosed for appropriate action by the respondent.

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2. In this case, the following two issues are involved :

(A) Promotion of the complainant to the post of ASI against reserved vacancy for persons with disabilities as per instructions of DOP&T vide O.M No.36035/8/89-Estt (SCT) dated 29.11.1989.

As per respondent's reply dated 23.12.2015, the complainant was not eligible for promotion to the post of ASI in accordance with the recruitment rules notified on 15.05.2013 as the complainant was not having the qualification of 12th pass till April, 2015. Therefore he would now be considered for promotion against a vacancy reserved for OH. The complainant during the hearing submitted that before the recruitment rules dated 15.05.2013, the educational qualification for promotion to the post of ASI was 10th pass, which he had. Therefore, he should have been promoted as ASI before 2015. Admittedly, the complainant was regularized as Swachata Karamchari w.e.f 01.04.2004 vide EDMC office order dated 26.12.2014. He became eligible for promotion to the post of ASI w.e.f 1.04.2012 on completion of 8 years service.

(B) Grant of transport allowance at double the normal rate to the complainant w.e.f 01.04.2004.

The complainant was certified as a person with locomotor disability by the Chief Medical Officer, Meerut, vide certificate no. M/7/CMO/02 dated 27.11.02. He was regularized as swachata Karamchari w.e.f 01.04.2004. Therefore his request for grant of transport allowance at double the normal rate w.e.f 01.04.2004 is legitimate. It is not understood under which rule or instructions the Administrative Officer (DEMS) EDMC, issued the office order dated 10.07.2015 for grant of transport allowance at double the normal rate to the complainant w.e.f 23.06.2015. The office order dated 10.07.2015 is against the Ministry of Finance's OM no.19029/1/78-EIV/B dated 31.8.1978 as amended from time to time.

3. In light of the facts mentioned above and the Government instructions, the respondent is advised as under:

- (i) If the recruitment rules for the post of ASI before 15.05.2015 provided for 10th pass as essential qualification, then the complainant be considered for promotion to the post of ASI against a reserved vacancy for persons with disabilities, subject to meeting the eligibility conditions as per the then applicable rules.

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- (ii) Issue appropriate orders for grant of transport allowance at double the normal rate to the complainant w.e.f 01.04.2004 and pay him the arrears within three month from the date of receipt of this order under intimation to this court.
- (iii) Intimate the action taken in the matter 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.

The matter is dispose of accordingly

Given under my hand and the seal of the Court this 15th day of May, 2017.




(T.D. Dhariyal)

Commissioner for Persons with Disabilities

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