

**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(732)/2014-Wel./CD/1384-85

Dated: 22-10-2014

In the matter of,

Sh.R.P.Yadav

D-2, Delhi Administration Flats
Timarpur, Delhi-110054

..... Petitioner

Versus

Sh.Lalmal Sawma

Principal Secretary

Social Welfare Department

Government of NCT of Delhi

GLNS Complex, Delhi Gate, Delhi

.....Respondent

ORDER

1. A representation of Sh.R.P.Yadav a disabled person was received through the Office of the Chief Commissioner for Persons with Disabilities. Sh.R.P.Yadav retired from the post of PGT (English) from the Government Senior Secondary School for Blind Boys Sewa Kutir Kingsway Camp, Delhi. The grievances of Sh.R.P.Yadav relate to his re-employment, refixation of pay in the scale of Principal of Government Senior Secondary School for Blind School under the Department of Social Welfare Government of NCT of Delhi and non awarding of 3rd MACP. On receipt of the representation comments were sought from the Department of Social Welfare. Meanwhile the petitioner met the Commissioner for Persons with Disabilities and filed his comments on the reply received from the Department of Social Welfare.

2. Briefly stated the facts of the case are that Sh.R.P.Yadav retired from the post of PGT (English) on 31st May 2014 and while working as PGT (English) he also officiated as Principal of Government Senior Secondary School for Blind Boys Sewa Kutir Kingsway Camp, Delhi vide order dated 1.11.12 and applied for refixation of pay but no action was taken for refixation of pay in the scale of Principal. He had applied for 3rd MACP on 2.3.12

and the case for granting 3rd MACP to Sh.R.P.Yadav is reportedly under process in the Department of Social Welfare. Engagement of teachers upto PGT level in the Department of Social Welfare after retirement up to the age of 62 years or till appointment of regular teachers whichever is earlier and of Principals and Vice-Principals in the schools under the Department of Social Welfare after retirement for one year extendable by one more year based on performance and subject to fitness and vigilance clearance was allowed on contract basis as per Notification no.F.56(1)/2004/DSW/Estt./5189-5202 dated 25.6.09 and order no. F.56(1)/2004/DSW/Estt./6955-74 dated 23.7.09 issued by the Department of Social Welfare in compliance of Cabinet Decision No.1522 dated 8.5.2009.

3. A perusal of the reply of the Department of Social Welfare reveals that the case of re-employment of Sh.R.P.Yadav has been rejected on the ground that **Quote** "The Department of Social Welfare runs schools meant for Deaf, Dumb, Blind and Mentally Retarded Children for the purpose of imparting education to them in a specialized manner. It will be in the interest of such children that teacher with special qualifications and experience as per recruitment rules must be appointed on regular basis. The position being so the request of all the teacher for re-employment has been rejected. Matter for appointment of such teacher on regular basis be taken up with DSSSB urgently." **Unquote**. The ground on which the re-employment of Sh.R.P.Yadav was rejected appears reasonable as the requisition of the department with DSSSB for making appointment of teachers on a regular basis has been pending for some time. As regards re-fixation of pay of the petitioner in the pay scale of Principal the reply of the Department reveals that an order in this regard has already been issued. The replication filed by the petitioner has also been perused. It is the prerogative of the Department to allow re-employment of retired employees considering the need and requirement of such re-employment and it cannot be claimed as a matter of right. The process of granting MACP however needs to be expedited and all benefits of MACP need to be paid to the petitioner in a time bound manner. It may also be important to mention that Sh.R.P.Yadav has endeared himself to the service of the society in a career spanning over around three decades. This is also proved by the fact that he was allowed to officiate as Principal of the school. He has however nowhere to go as he has not built a house in Delhi and his children have not completed their education. In case his request is not considered favourably he will have to vacate the government accommodation allotted to him which would jeopardize the future of his children who would not be in a position to complete their professional courses etc. It is therefore for consideration whether the Department could reconsider their decision and re-employ the petitioner till such time regular appointment is

made or up to the age of 62 years whichever is earlier. That there is requirement of a teacher/Principal is borne out by the assertion of the department for getting the vacancies of teachers/Principal etc filled up expeditiously. The case is further supported by the Cabinet Decision No.1522 dated 8.5.2009. Hon'ble Supreme Court of India in a recent judgement has also emphasised on the need for considering the cases of the disabled persons favourably. The Hon'ble Supreme Court of India in Writ Petition (Civil) No.116 of 1998 observed **Quote** "In the matter of providing relief to those who are differently abled, the approach and attitude of the executive must be liberal and relief oriented and not obstructive or lethargic. A little concern for this class who are differently abled can do wonders in their life and help them stand on their own and not remain on mercy of others. A welfare State, that India is, must accord its best and special attention to a section of our society which comprises of differently abled citizens. This is true equality and effective conferment of equal opportunity" **Unquote**. Such a gesture would help the family in finding an alternative place. This will be a great help to the family particularly considering the fact that Sh.R.P.Yadav a visually impaired person worked assiduously and brought up his children to become responsible citizens of the Society. A little concern would go a long way in ensuring permanent settlement of the family. There is a need to assuage the sheer desperation of the children of a disabled person who need the help of the Society/Government at this crucial juncture in their life. An Action Taken Report shall be filed within 15 days i.e by 10.11.14.

4. Ordered accordingly.

Given under my hand and the seal of the Court this 22nd day of October, 2014.



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22/10

(K.S. Mehra)
Commissioner

Court of Commissioner (Disabilities)
National Capital Territory of Delhi
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