

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. 4/1081/2015-Wel/CD/899-900

Dated: 30/6/17

In the matter of :

Sh. Satbir, D-1/89,
2nd Floor, Sector 11, Rohini,
Delhi - 110086.

.....Complainant

Versus

The Chief Executive Officer,
Delhi Jal Board
Varunalaya Phase- II, Faiz Road,
Karol Bagh, New Delhi -
110005.

.....Respondent

Date of Hearing : 19.06.2017.

Present : Sh. Sandeep Gulati, Assistant Commissioner, DJB
Sh. Arun Kumar Kaushik, Head Clerk.

ORDER

The above named complainant, a person with more than 40% locomotor disability vide his complaint dated 10.08.2015, inter-alia submitted that he was appointed as athletic coach by Sports Authority of India for Para Asian Games 2014 held in Incheon, South Korea, from 18.10.2014 to 24.10.2014. He is Junior Engineer (Civil) in Delhi Jal Board (DJB). His request dated 19.11.2014 for out of turn promotion to the post of A.E (Civil) as per DOP&T's OM No. 14034/01/2013/Estt(D) dated 3.10.2013 was rejected on the ground that his initial appointment was in Group B post and not under sportsperson quota vide letter dated 20.01.2015. He also represented to the chief Executive Officer, DJB vide representation dated 18.02.2015. However, he did not receive any response. Hence he filed the complaint dated 18.08.2015 addressed to the Chief Commissioner for Person with Disabilities, Govt. of India with a copy to the Commissioner for Persons with Disabilities among others.

2. The complaint was taken up with the respondent vide communication dated 17.08.2015 followed by reminders and hearings on 26.10.2015. As no

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progress report was forth coming from the respondent, a hearing was scheduled on 19.06.2017. During the hearing on 19.06.2017, reiterating their written submissions, the representatives of the respondent stated that the matter was put up to the Principal Secretary, who has raised some queries which need to be replied. There after appropriate action will be taken as per the decision of the competent authority. The complainant submitted that his case has already been delayed inordinately on an untenable ground and the deprivation of his legitimate entitlement should not be further prolonged.

3. Upon perusal of the record made available by the parties, the relevant office file of the respondent and hearing the parties, it is observed that Department of Personnel & Training, Govt. of India issued consolidated instructions on incentives for sportspersons in Government vide OM No.14034/01/2013-Estt (D) dated 3.10.2013. Part (C) of the OM relates to 'the Scheme for Out of Turn Promotion for Sports Persons'.

4. As per Para III (vi) of the scheme, it will cover differently-abled sportspersons for equivalent events/games organized for them.

5. Para IV (a) (iv) provides that an out of turn promotion be considered for performance as a coach if he/she has trained a sportsperson or a team which goes on to win a medal in any of the international Games/Championships mentioned in Para III which includes Asian Games. A coach who is a Government employee will be considered for out of turn promotion even if the sportsperson (s) he/she has trained is not a Government servant provided he has already intimated his/her office the name of sportsperson (s) or team which have been receiving training from him. The appointing authority for the post shall be the competent authority for grant of relaxation of conditions in the recruitment rules applicable to the promotional post with prior approval of Secretary, in case of Ministry and Head of organization in case of attached and subordinate offices as per para VII.

6. Para VIII of the scheme says that the entitlement of a sportsperson for out of turn promotion may be processed within a period of three months from the date of occurrence of event which entitles him/her for out of turn promotion. It will be responsibility of the concerned administrative Ministry/Department to consider a sportsperson for out of turn promotion within the prescribed time limit. The out of turn promotion is to be effected from the date of conclusion of event as per para IX of the scheme.

7. The Paralympic Committee of India (PCI) informed the complainant that he had been appointed as Team Coach, Athletic for the Second Asian Para Games, 2014 in Incheon, South Korea, vide letter dated 15.09.2014. He was asked to give his consent for his availability from 8.10.2014 to 26.10.2014. The

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complainant vide his application dated 22.09.2014 requested Assistant Commissioner (T) DJB, for no objection certificate as well as sanction of special leave from 08.10.2014 to 26.10.2014. He also clarified in his application that all expenses for his air ticket boarding and lodging would be borne by Ministry of Youth Affairs, Govt. of India as admissible to the Asian Games Team. Subsequently, (PCI) vide letter dated 07.10.2014 also informed that he had been selected by Sports Authority of India.

8. The respondent vide letter no. DJB/AC(T)/JE(C)/PIF/2014 dated 09.10.2014 allowed the complainant to go abroad to attend Incheon Para Asian Games 2014 in South Korea as a Team Coach and also granted him special leave from 08.10.2014 to 26.10.2014.

9. Sh. Sharad Kumar, who was one of the members of the Indian contingent for Athletics (Men High jump) won the gold medal. The complainant was the coach for Indian contingent as per Team Division of Sports Authority of India, Ministry of Youth Affairs, letter dated 10.10.2014.

10. On conclusion of the Games, the complainant vide his application dated 19.11.2014 addressed to Asstt. Commissioner (T) DJB requested for out of turn promotion to the higher post. The Asstt Commissioner (T) vide letter dated 20.01.2015 informed him that the complainant's initial appointment was made on the post of JE(Civil) which is a Group B post and not under sportspersons quota. As such his request for out of turn promotion to the post of AE (C) under sports person quota could not be exceeded to.

11. The complainant, who himself is a person with locomotor disability of more than 40% says that he has been training and coaching children with disabilities in athletics since 1997, investing his own personal time. His trainees with disabilities have won a number of medals at various levels including one Gold Medal in the Asian Para Games.

12. From the record made available by the parties, it is seen that the complainant meets all the requirements of the scheme though he did not inform his office, the name of the sportsperson or the team who had been receiving training from him until he was appointed the Team Coach of the Indian Contingent. However, in order to be sure, the respondent vide letter dated 20.10.2015 sought a clarification from PCI who clarified among other things, that the complainant had trained Sh. Sharad Kumar, the gold medalist for the Asian Para Games 2014 in 42 category, High Jump event vide letter dated 09.12.2015.

13. As per Para V of the scheme, out of turn promotion is to be allowed by up-gradation of the post personal to the sportsperson/coach and no separate post

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need to be created. As per the representatives of the respondent, the appointing authority for the post of A E is the concerned Member of DJB. As per the scheme, appointing authority i.e Member DJB for the post shall be the competent authority for grant of relaxation from requirement of completing the qualifying service, educational qualification, pre-promotion training or any other condition that may be prescribed in the statutory recruitment rules applicable to the promotion post, with prior approval of Head of the Organization.

14. It is also worth noting that a time frame of three months has been prescribed in Para VIII of the scheme for out of turn promotion from the date of occurrence of event which entitles out of turn promotion. It has further been emphasized that it will be the responsibility of the concerned administrative Ministry/Department to consider such promotion within the prescribed time limit.

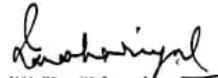
15. Rejection of the request of the complainant for out of turn promotion in accordance with the scheme on the ground that his initial appointment had been made in the post of J.E. (Civil) which is a Group B post and not under Sportsperson quota is not at all justified as there is no such condition or requirement in the scheme.

16. In the facts and the circumstances of the case and keeping in view the fact that the entitlement of the complainant has already been delayed inordinately by more than two and half years, it is recommended that the appointing authority concerned, with the prior approval of the Head of the Organization in DJB should grant out of turn promotion to the complainant from the date of conclusion of the Asian Para Games 2014 i.e 24.10.2014 with all consequential benefits in terms of the scheme issued by DOP & T vide their OM dated 3.10.2014 referred to above within three months from the date of receipt of this order and intimate this court and the complainant as required under Section 81 of the Rights of Persons with Disabilities Act, 2016.

17. The case is disposed of accordingly.

18. Given under my hand and the seal of the Court this 30th day of June,




(T.D. Dhariyal) 30.6.201

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