

**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. 4/1600/2017-Wel./CD/ 1899 - 1900

Dated: 19/09/2017

In the matter of:

Mrs. Sunita Devi,
W/o Sh. Youdhvir Singh,
Flat No. 368, Sector -19, Pocket-03,
Dwarka, New Delhi -110075.

..... Complainant

Versus

The Director,
Directorate of Education,
Old Sectt., Delhi-110054.

.....Respondent

Date of hearing: 06.09.2017

Present: Smt. Sunita Devi alongwith her husband Youdhvir Singh for
Complainant.
Dr. V.R Verma on behalf of respondent.

ORDER

Sh. Youdhvir Singh, husband of the complainant, who is a person with 83% permanent physical disability as indicated in his disability certificate dated 19.01.2016 vide complaint dated 19.04.2017, inter-alia submitted that her husband is entitled to the benefit of double Transport Allowance(T.A.) as per the OM of Ministry of Finance, Department of Expenditure. However, the school authorities i.e. Govt. Co-ed. Senior Secondary School, Bamnoli., Dhulsirus, New Delhi-110077 where Sh. Youthvir Singh is working as TGT Science, had denied him the benefit. Head of School of the said school vide his letter dated 24.03.2017 had informed him that

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DDE (South West-B) had asked for an order which shows that the double T.A. is admissible to a PH employee who has the disability due to neurological problem.

2. The complaint was taken up with the respondent vide notice dated 31.05.2017 followed by reminder dated 27.07.2017. As there was no response, a hearing was scheduled on 06.09.2017.

3. On 06.09.2017, the representative of the respondent submitted a letter dated 06.09.2017 which says that the matter was duly examined by AO(P&PF) and DCA (HQ), Directorate of Education and the same was rejected with the comments that *"the grant of double Transport Allowance on the basis of his permanent disability on account of Neurological problem has been examined by the Competent Authority and rejected as the matter is not covered under the rules and orders issued from time to time, by Govt. of India in this regard."* A copy of rejection order dated 25.07.2017 is also enclosed with the letter of the respondent.

4. The complainant was accompanied by her husband Sh. Youdhvir Singh who reiterated the written submissions and added that he is entitled to the Transport Allowance at double the normal rate and all other benefits available to a person with disability as he has been assessed and certified to be 83% locomotor disabled by a Medical Board of VMMC and Safdarjung Hospital, New Delhi.

5. It is observed that a disability certificate dated 19.01.2016 for multiple disability was issued in respect of the complainant in Form-III of the Persons with Disabilities Rules 2009, by the VMMC & Safdarjung Hospital, New Delhi. As per the said certificate, his overall permanent physical impairment is 83%, which is not likely to improve. The total permanent physical impairment of 83% is shown to be due to three conditions (all of which are not clearly legible) due to which permanent physical impairment is to the extent of 75%, 34% and 25% respectively.

6. The Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act 1995 (PwD Act) was repealed w.e.f. 19.04.2017 when the Rights of Persons with Disabilities Act, 2016 came into force. The PwD Act provided for seven disabilities, one of which is 'locomotor disability'. For evaluation of those disabilities including locomotor disability and for their certification, Ministry of Social Justice and Empowerment issued guidelines vide their notification No. 16-18/97-NI(I)

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dated 1st June, 2001. Till date, the assessment of the said disabilities including that of locomotor disability is being done in accordance with the said guidelines. The provision for assessment of locomotor disability is at Para 'C' of the said notification and the 'Guidelines for Evaluation of Physical Impairments in Neurological Conditions' are at Sl.No. 7. The neurological conditions that result in permanent physical impairment (PPI) are also given in the said guidelines. The assessment of neurological conditions is not the assessment of disease but the assessment of its effects i.e. clinical manifestations and the guidelines are to be used only for central and upper motor neurone lesions. Therefore as of now, a disability certificate issued on account of neurological conditions is given for locomotor disability.

7. In the light of the provisions of the PwD Act, 1995 and the guidelines of Ministry of Social Justice and Empowerment, the complainant is a person with locomotor disability due neurological conditions and is eligible for grant of transport allowance at double the normal rate in accordance with the Govt. of India's instructions. The respondent is therefore advised to re-examine the matter and grant the complainant the transport allowance at double the normal rate w.e.f. the date it was due to him and pay him the arrears and intimate this Court by 29.10.2017.

8. With regard to the format of the disability certificate used by the VMMC / Safdarjung Hospital, New Delhi to Sh. Youdhvir Singh, I am of the opinion that the disability of the complainant is locomotor disability and not multiple disability. Even though the three diagnoses mentioned in the disability certificate are not legible to read and understand for a non-medical person, they appear to be three neurological conditions manifesting their effects on mobility of parts of the body. Even if, the neurological conditions manifest their effects in other impairments than locomotor, as the manner of writing these conditions in the certificate may appear to be, two of them resulting in impairment of 34% & 25%, could not disqualify Sh. Youdhvir Singh from his eligibility for the TA at double the normal rate as the first condition itself has caused 75% disability.

9. I would, therefore, for the limited purpose, advise VMMC/Safdarjung Hospital, New Delhi to re-examine the disability certificate dated 19.01.2016 and issue a fresh disability certificate to Sh. Youdhvir Singh in an appropriate form i.e. Form-VIII of the Rights of Persons with Disabilities Rules, 2017 which has been

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prescribed for cases other than the case of amputation or complete permanent paralyses of limbs or dwarfism or blindness and in case of multiple disabilities. This, however, must not delay grant of TA at double the normal rate to Sh. Youdhvir Singh.

10. The matter is disposed of accordingly.

11. Given under my hand and the seal of the Court this 19th day of September 2017.



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(T.D. Dhariyal)

State Commissioner for Persons with Disabilities