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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. 1070/1011/2019/08/ 8496

Dated: 27/11/19

In the matter of:

SUO-MOTU

Versus

The Vice Chancellor,
Delhi Technological University,
Shahbad Daulatpur,
Bawana Road, New Delhi-110042.

.....Respondent

Final date of hearing: 20.11.2019

Present: Sh. Pradeep Kumar Vegian, Asstt. Registrar, DTU
on behalf of respondent.

ORDER

The information received from the respondent University vide letter dated 26.07.2018 in response to this court's letter No. 5/1593/2017-Wel./CD/155-316 dated 05.05.2017 written to all Secretaries, Spl. Secretaries, HoDs etc. seeking backlog of reserved vacancies for persons with disabilities, indicated the sanctioned strength as 12 whereas the University had advertised 167 posts of Assistant Professor on 01.07.2019.

2. The matter was therefore taken up with the University through a Suo-Motu showcause-cum-hearing notice dated 19.08.2019 under the

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Rights of Persons with Disabilities Act, 2016, hereinafter referred to as the Act.

3. The University was also directed to showcase why vacancies should not be reserved for persons with benchmark disabilities as per the provision of the Act and instructions of DoP&T's OM No. 36035/02/2017-Estt.(Res) dated 15.01.2018 and issue a corrigendum to the advertisement dated 01.07.2019 within 10 days of receipt of the notice. It was also decided to hold a hearing on 18.09.2019.

4. Section 33 of the erstwhile Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 provided for reservation of 1% vacancies for persons with blindness/low-vision, 1% for locomotor disability and Cerebral Palsy and 1% for hearing impairment. After the said Act was repealed with the coming into force of the Rights of Persons with Disabilities Act, 2016 (the Act) on 19.04.2017, not less than 4% of the total number of vacancies are to be reserved for persons with benchmark disabilities under Section 34 of the said Act. Now, the 4% reserved vacancies are to be distributed among more categories of specified benchmark disabilities as provided in Section 34 of the Act.

5. Department of Personnel & Training vide their OM No. 36035/3/2004-Estt(Res) dated 29.12.2005 and OM No. 36035/02/2017-Estt(Res) dated 15.01.2018 prescribe the procedure for effecting


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reservation and computing the reserved vacancies etc. at the rate of 3% and 4% respectively.

6. As per Department of Personnel & Training's OM No. 36012/39/2014-Estt (Res.) dated 22-25th May, 2015 and the directions of Hon'ble Supreme Court of India, a special recruitment drive for filling up backlog of reserved vacancies was to be conducted by the concerned Departments.

7. Section 34 of the Act provides as under:

"34.(1) Every appropriate Government shall appoint in every Government establishment, not less than four per cent of the total number of vacancies in the cadre strength in each group of posts meant to be filled with persons with benchmark disabilities of which, one per cent each shall be reserved for persons with benchmark disabilities under clauses (a), (b) and (c) and one per cent. for persons with benchmark disabilities under clauses (d) and (e), namely:—

- (a) blindness and low vision;*
- (b) deaf and hard of hearing;*
- (c) locomotor disability including cerebral palsy, leprosy cured, dwarfism, acid attack victims and muscular dystrophy;*
- (d) autism, intellectual disability, specific learning disability and mental illness;*
- (e) multiple disabilities from amongst persons under clause (a) to clause (d) including deaf-blindness in the posts identified for each disabilities:*

Provided that the reservation in promotion shall be in accordance with such instructions as are issued by the appropriate Government from time to time:

Provided further that the appropriate Government, in consultation with the Chief Commissioner or the State Commissioner, as the case may be, may, having regard to the type of work carried out in any Government establishment, by notification and subject to such conditions, if any, as may be specified in such notifications exempt any Government establishment from the provisions of this section."

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(2) Where in any recruitment year any vacancy cannot be filled up due to nonavailability of a suitable person with benchmark disability or for any other sufficient reasons, such vacancy shall be carried forward in the succeeding recruitment year and if in the succeeding recruitment year also suitable person with benchmark disability is not available, it may first be filled by interchange among the five categories and only when there is no person with disability available for the post in that year, the employer shall fill up the vacancy by appointment of a person, other than a person with disability:

Provided that if the nature of vacancies in an establishment is such that a given category of person cannot be employed, the vacancies may be interchanged among the five categories with the prior approval of the appropriate Government.

(3) The appropriate Government may, by notification, provide for such relaxation of upper age limit for employment of persons with benchmark disability, as it thinks fit."

8. On 18.09.2019, Dr. Ravinder Kaushik, Dy. Registrar and Sh. Pradeep Kumar Vegian, Assistant Registrar appeared and submitted a written statement dated 17.09.2019 in response to the show cause-cum-hearing notice in Dr. Mohd. Shadab Alam's and Sh. Pavitra Singh's case no. 1069/1011/2019/08 and 1197/1012/2019/10, who had raised certain issues relating to recruitment/ age relaxation in their complaints which have been disposed of by a common order dated 13.11.2019. It is stated therein that the University re-advertised the posts vide advertisement dated 13.09.2019 and 15.09.2019 published in The Times of India and Hindustan Times respectively. These were earlier advertised on 01.07.2019 and 30.07.2019. Out of the 167 vacancies, 13 have been reserved for persons with benchmark disabilities (locomotor disability, blindness and low vision) in the advertisement dated 13.09.2019. Five

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vacancies have been reserved out of 87 vacancies in the advertisement dated 15.09.2019.

9. The representatives of the University stated that the reservation has been computed against the total no. of 466 sanctioned posts of Assistant Professor in various disciplines and the rosters were being prepared separately for Assistant Professors, Associate Professors and Professors. They also clarified that the information supplied by the University in response to the letter no. F/1593/2017-Wel/CD/ dated 05.05.2017 and dated 15.06.2018 of this Court was in respect of the non-teaching posts. They sought one month for submitting consolidated information in the prescribed format based on which the backlog of reserved vacancies, if any, would be computed.

10. It was made clear to them that the reservation for persons with benchmark disabilities as per the Act and instructions of DoP&T, is vacancy based. Reservation is to be computed on the basis of a separate 100-point vacancy based roster in each Group which would include all the posts in that Group. Thus, every establishment is required to maintain one separate 100-point vacancy based roster in respect of the vacancies to be filled by direct recruitment in all the posts in Group A, one roster for Group B posts to be filled by direct recruitment, one roster for Group C posts to be filled by direct recruitment and another roster for Group C posts to be filled by promotion.

[Signature]
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11. The Delhi Rights for Persons with Disabilities Rules, 2018, the Central Rights of Persons with Disabilities Rules, 2017 and DoP&T's instructions vide OM dated 15.01.2018 provide the procedure in detail for computing the reserved vacancies, maintenance of rosters, carry forward of reserved vacancies/reservation and the way the vacancies should be advertised.

12. The respondent University was directed to prepare the vacancy based reservation rosters in accordance with the instructions of DoP&T and also provide the information in the format already supplied including the number of backlog reserved vacancies, if any, and the proposal to conduct special recruitment drive, if required, on the next date of hearing, on **24.10.2019**.

13. On the next date of hearing on 24.10.2019, the representative of the respondent submitted letter dated 23.10.2019 reiterating the position as stated earlier and that the process for filling up 254 vacancies was going on.

14. Perusal of the reservation roster revealed that there is need for appropriate and adequate training on preparation of reservation rosters and computation of reserved vacancies. The University was therefore advised to organise an intensive training programme for the concerned officers and staff so that a flawless system of preparation of rosters, computation of reserved vacancies and the backlog is put in place.

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15. On 20.11.2019, Sh. Pradeep Kumar Vegian, Asstt. Registrar appeared and submitted the status vide letter dated 19.11.2019 alongwith a table indicating year wise vacancies of teaching posts of Asstt. Professor/ Associate Professor and Professor filled since 1987, the year when erstwhile Delhi College of Engineering came into existence. He also informed that the University will be organising a training workshop on reservation for persons with benchmark disabilities within next 15 days. Thereafter, proper reservation rosters will be prepared for teaching as well as non-teaching posts. It is seen from the table that 279 vacancies of Assistant Professor, Associate Professor and Professor were filled from 1987 to 2018 and 196 vacancies were filled upto 2016. While reservation @ 3% will have to be computed against the vacancies filled upto 2016 and @ 4% thereafter.

16. It is recommended that the respondent University should prepare reservation rosters for teaching as well as non-teaching posts in accordance with DoP&T's OM dated 29.12.2005 and 15.01.2018 on priority and workout the exact number of backlog reserved vacancies, if any. The backlog reserved vacancies should be filled up on priority, if necessary, by conducting a special recruitment drive and the advertisement for the purpose should be issued within 3 months from the date of receipt of this order.

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17. This court be informed of the action taken in the matter within 3 months from the date of receipt of this order as required under Section 81 of the Act which reads as under:

"Whenever the State Commissioner makes a recommendation to an authority in pursuance of clause (b) of section 80, that authority shall take necessary action on it, and inform the State Commissioner of the action taken within three months from the date of receipt of the recommendation:

Provided that where an authority does not accept a recommendation, it shall convey reasons for non-acceptance to the State Commissioner for Persons with Disabilities within the period of three months, and shall also inform the aggrieved person."

18. The names/addresses/contact details of the persons appointed against the reserved vacancies be intimated to this court within 7 days of their joining.

19. The matter is disposed of.

20. Given under my hand and the seal of the Court this 27th day of November, 2019.




(T.D. Dhariyal)

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