

**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. 753/1011/2019/02/6594-6597

Dated: 11.10.2019

In the matter of:

Sh. Bimbadhar Sethi

Vandematram Bhawan
Swasth Kust Rogi Majdoor Punarvash Sangthan
Room No.1 Leprosy Complex Tahirpur
Shahdara Delhi- 110084

.....Complainant

Versus

The Commissioner

North Delhi Municipal Corporation
4th Floor, Dr. S.P.M. Civic Centre
JLN Marg, New Delhi -110002.

.....Respondent No.1

The Commissioner

South Delhi Municipal Corporation
9th Floor, Dr. S.P.M. Civic Centre
JLN Marg, New Delhi -110002.

..... Respondent No.2

The Commissioner

East Delhi Municipal Corporation
419, Udyog Sadan, Patparganj
Industrial Area
Delhi -110096

.....Respondent No.3

Last date of hearing : 04.09.2019

Present: Sh. K.K. Barman, AO alongwith Sh. Siya Ram for
respondent on behalf of North DMC.

Sh. Pradeep Kumar, SSA for respondent on behalf of East
DMC.

Sh. Yogendra Babu, Liaison Officer on behalf of SDMC.

ORDER

Sh. Bimbadhar Sethi, General Secretary of Vandematram, Swasth Kust Rogi Majdoor Punarvash Sangathan filed a complaint vide letter dated nil, forwarded by the O/o the Minister (Social Welfare, Cooperative, SC/ST/OBC & Gurudwara Election) GNCTD vide letter dated 12.02.2019 requesting that leprosy cured persons should be appointed against the vacant posts under 4% quota for persons with disabilities in all the three MCDs by conducting special recruitment drive. The request was based on the contention that often the Corporations did not get enough people to work as Paryavaran Sahayaks and leprosy cured person are willing to work and have also been efficiently doing their job.

2. The complaint was taken up with the respondents vide notice to show-cause-cum hearing dated 07.03.2019 under the provisions of Rights of Persons with Disabilities Act, 2016, hereinafter referred to as the 'Act'.

3. Suo motu cases had also been registered against the three DMCs which involved filling up the reserved backlog vacancies for persons with disabilities, if any in Group A, B, C & D posts. It was therefore decided to tag this case with the suo motu cases and common proceedings were conducted. While the complete information with respect to Group A, B & C posts is yet to come, this case can be disposed of based on the submissions made in respect of Paryavaran Sahayaks. In view of this, the case is being disposed of by a separate order.

4. After 5 hearings held on 10.04.2019, 07.05.2019, 24.06.2019, 05.08.2019 and 04.09.2019, the submissions of the parties have been summed up as under:

- i) The complainant, besides reiterating his written submissions contended that reservation for leprosy cured persons was not

provided at the time of engaging daily wage Safai Karmacharis (Paryavaran Sahayak). If that was so, then reservation should be provided while regularising the services of daily wage Paryavaran Sahayaks.

ii) North DMC—

(a) North DMC contended that they filled up 5,851 vacancies in Group D posts by direct recruitment since 1996. Out of them, 160 were with locomotor disability. Thus, there is no backlog of reserved vacancies for persons with locomotor disability. Further, 124 out of 160 persons with locomotor disability were leprosy cured persons as Paryavaran Sahayaks which alone is more than 1% of the total vacancies. Therefore, there is no backlog of reserved vacancies for locomotor disability or leprosy cured persons in the post of Paryavaran Sahayak.

(b) After preparation of rosters, the backlog reservation in respect of VI and HI will have to be filled.

(iii) SDMC—

(a) The information prior to 2012 has to be given by North DMC. After trifurcation of the MCD in 2012, SDMC appointed 448 daily wages Safai Karmacharis in 2015. Out of them, 6 were persons with disabilities as against 14 at the rate of 3%. Thus, there is a backlog of 8 vacancies for persons with disabilities against 448 persons appointed as daily wages Safai Karmacharis.

(b) In compliance with the directions of this Court, the representatives of SDMC on 04.09.2019 submitted a copy of

note-sheet dated 02.09.2019 as per which the Additional Commissioner (DEMS), SDMC has approved engagement of 8 Safai Karamcharis in Group D posts to fill up the backlog reserved vacancies for persons with disabilities.

iv) **EDMC—**

(a) The backlog against the vacancies filled since 1996 has to be provided by North DMC. Against a sanctioned strength of 13000 posts of Paryavaran Sahayaks, the EDMC already has 18000. Therefore, there are no vacancies against which leprosy cured persons can be appointed. However, EDMC will ensure reservation of 4% vacancies for persons with benchmark disabilities against the future vacancies that may be filled.

(b) EDMC has not done any recruitment of Safai Karamcharis after 2012 other than on compassionate ground. Existing daily wage employees are being regularized against the vacancies in the sanctioned posts.

(c) As regards provision of reservation at the time of regularisation, it has been submitted that leprosy cured persons were engaged as daily wage Paryavaran Sahayaks by the unified MCD against the vacancies reserved for persons with disabilities. The regularisation of daily wagers is being done in phased manner policy of MCD prevailing since 1988. It is therefore difficult to consider reservation for persons with disabilities/leprosy cured persons at the time of regularization.

5. In light of the submissions of the parties, the following recommends are made:

- i) North DMC should provide the information with regard to the vacancies filled in Group D posts before trifurcation of unified MCD so that SDMC and EDMC can compute the reserved vacancies and fill up the backlog, if any.
- ii) SDMC should expedite filling up the 8 vacancies of Paryavaran Sahayaks and complete the process within 3 months from the date of receipt of this order. The complainant may advise the eligible leprosy cured persons to apply in response to the recruitment notice.
- iii) If any of the DMCs is not able to fill the vacancies of Paryavaran Sahayaks by persons with visual impairment/hearing impairment/other disability for which the posts are identified, they should consider appointing eligible leprosy cured persons.

6. The complainant is disposed of.

7. Given under my hand and the seal of the Court this 11th day of October, 2019.

(T.D. Dhariyal)
State Commissioner for Persons with Disabilities