

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
Phone-011-23216002-04, Telefax: 011-23216005,
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[Vested with powers of Civil Court under the
Rights of Persons with Disabilities Act, 2016]

Case No.1098/1092/2019/08 87-21-23

Dated: 2.12.19

In the matter of:

Sh. Mukesh

S/o Late Sh. Prabhu Dass

Sh. 259/16, Dakshin Puri Extn.

Delhi-110062

.....Complainant

Verses

The Motor Licensing Officer
O/o the Motor Licensing Officer
ISBT Sarai Kale Khan

.....Respondent no.1

The Secretary-cum-Commissioner
Transport Department
5/9 Under Hill Road
Delhi -110054.

.....Respondent no.2

Last Date of Hearing: 26.11.2019

Present:

Sh. Mukesh, complainant

Sh. Nand Gopal on behalf of Transport Deptt.

ORDER

The above named complainant, a person with 41% locomotor disability (Post-Polio residual paralysis of left lower limb) submitted his complaint dated 16.08.2019 and the documents vide his letter dated 16.08.2019. He submitted that his father Sh. Late Prabhu Das who was working as conductor in DTC, expired on 31.07.2009 while on duty. He approached DTC for the post of conductor. He applied for conductor's licence. Though,

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the licence had been made but the Licence Inspector did not give him the licence due to his disability. Recently, there were vacancies of DTC. He again approached Sarai Kale Khan Licencing Authority for conductor licence which was again refused to him because of his disability.

2. The matter was taken up with the respondents vide notice dated 25.09.2019 under the Rights of Persons with Disabilities Act, 2016, hereinafter referred to as the Act. The Motor Licencing Officer, South Zone, New Delhi vide reply dated nil received on 16.10.2019 submitted as under:

"It is respectfully submitted that:

1. That a notice bearing Case No. 1098/1092/2019/08/6106 dated 25.09.2019 received on the subject of 'Notice to show cause enclosing therewith a copy of complain date 16.08.2019 of Mukesh son of Late Prabhu Das resident of 16/239 Dakshin Puri Extension, Delhi-62, addressed to The Hon'ble Commissioner for Persons with Disabilities, New Delhi-2.
2. It is further submitted that, on perusal of the contents of the enclosed application, the applicant was denied to grant the conductor license in compliance of provisions laid down under section 17 of the Delhi Motor Vehicle Rules 1993 is as under:

"Section 17. Qualifications, duties, functions and conduct of conductor.-

- 1) No person shall be granted a conductor's licence unless he satisfies the licencing authority that: (i) he has adequate knowledge of the provisions of the Act and the rules made there under relating to the duties and functions of a conductor; (ii) he possesses a good moral character; (iii) he possesses a valid Adult First-Aid Certificate issued by the St. John Ambulance Association of India; (iv) he possesses working knowledge of Hindi language; and (v) he is not below 18 years of age.*

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- 2) The licencing authority may decline to issue/renew a conductor's licence if it is satisfied that: (i) the applicant's knowledge of the provisions of the Act and of these rules and of the duties and powers of a conductor thereunder is inadequate to enable him to perform the duties of a conductor; or (ii) the applicant was, at any time, the holder of a conductor's or a driving licence which has been cancelled for misconduct; or (iii) the character or physique of the applicant is such as to render him an unsuitable person to hold a conductor's licence;
- 3) The licencing authority may, for reasons to be recorded in writing, suspend or cancel a conductor's licence by itself or any countersignature granted in accordance with this rule. Any court by which a conductor is convicted of any offence in connection with his duty as a conductor may cancel the conductor's licence.
- 4) A conductor of a stage carriage shall on demand by the police officer in uniform not below the rank of Sub Inspector produce his conductor's licence for inspection.
- 5) Duties and functions of conductors:
- (i) a conductor shall be jointly responsible with the driver in the performance their duties and functions as given in Rule 11.
 - (ii) in addition to the aforesaid a conductor shall perform the following functions namely:
 - a. announce the name of each halting place, bus stand or bus station or is stopping by request just before the vehicle is about to stop;
 - b. ensure, before giving signal to the driver to start the vehicle, that the alighting persons have got down and the intending passengers have got into the vehicle;
 - c. issue ticket immediately on payment of the legal fare or freight;
 - d. at the conclusion of the journey, make reasonable search in the vehicle for anything left behind by any passenger and shall take into his custody anything so found and further deal with it as given in Rule 70 under the heading "Lost Property"; and

e. take all reasonable precautions to prevent luggage, which may be carried on the roof of the vehicle, being miscarried, or lost on the way or drenched in the rain.

3. It is further submitted that, if the applicant appointed by the Delhi Transport Corporation in physically handicapped quota on the recommendation of the recognized medical board by the Delhi Transport Corporation and further recommended by the DTC for issuance of conductors license to the applicant. The conductor license may be issued.

(Copy enclosed as Annex.-1)

4. Submitted Please.

RESPONDENT NO. 1
Motor Licensing Officer
South Zone, New Delhi"

3. Upon considering the reply of respondent No. 1, a hearing was scheduled on 26.11.2019.

4. Sh. Nand Gopal, MLO, South Zone appeared and reiterated his written submissions and also added that Central Motor Vehicle Rules and Delhi Motor Vehicle Rules do not mention anything about identification of the post of conductor for persons with disabilities. DTC requests them to issue conductor licence to an applicant with disability who is under consideration for the post against the reserved vacancy for persons with disabilities.

5. As per notification No. 16-15/2010-DD-III dated 29.07.2013 notified by Ministry of Social Justice and Empowerment, Deptt. of Disability Affairs, Govt. of India, the post of 'Bus-Conductor' at serial No. 219 of the list of Group-C posts, is identified for OA, OL, BL, MW. The physical requirements for the post are S-sitting, ST-standing, W-walking, SE- seeing, RW-reading

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and writing, H-hearing, C-communication. As the complainant has disability in one lower limb, he prima-facie meets all the requirements of the post of bus conductor.

6. In light of the above, there is no reason for refusing conductors licence to the complainant.

7. The issue raised by Sh. Nand Gopal regarding a mention about suitability of the post of Conductor for persons with disabilities in Delhi Motor Vehicle Rules, 1993, the same is indeed a matter of dissemination of the information to the field officers and aligning the relevant rules, guidelines, instructions with the provisions of the relevant principal laws.

8. It will be in the fitness of things for me to bring to the notice of the respondents that this court vide order dated 27.04.2018 in case No. 121/1093/2018/02 of Sh. Prashant Singh (a persons with 50% locomotor disability) Vs. Transport Department directed the Motor Licencing Officer, Transport Department North-East, Loni Road, Shahdara to consider the complainant therein for issuance of conductors licence if otherwise, he is eligible for the same. It was made clear in that case that Sh. Prashant Singh could not be declared physically unfit because of his disability.

9. Secretary-cum-Commissioner, Transport Department (Respondent No. 2) is advised to take appropriate action to incorporate necessary provision about eligibility of persons with disability of relevant category for Conductor's Licence in Delhi Motor Vehicle Rules, 1993 or issue


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instructions to all concerned in the Department, so that eligible persons with disabilities are not inconvenienced, harassed or deprived of their entitlement. However, absence of a mention in the Delhi Motor Vehicle Rules, 1993 which is subordinate to the Rights of Persons with Disabilities Act, 2016 and the erstwhile Persons with Disabilities Act, 1995, can not be a ground for not issuing the Conductor's Licencing to an applicant for whose disability the post of Bus Conductor has been identified.

10. In light of the above discussion, the following recommendations are made:

- i. The complainant should approach Motor Licencing Officer, South Delhi, Sarai Kale Khan within 7 days from the date of receipt of this order for Conductor's Licence for which he has already applied.
- ii. The Motor Licencing Authority, South Delhi, Sarai Kale Khan will consider the application and if he meets the other eligibility conditions, issue him the Conductor's Licence within one week thereafter. It is once again made clear that the complainant shall not be denied the Conductor's Licence on the ground of his disability which is locomotor disability (OL) for which the post of bus conductor has been identified in pursuance to the Persons with Disabilities Act, 1995.
- iii. Respondent No. 2 should issue appropriate directions to all concerned including MLO, South Zone not to deny Conductor's

Licence to persons with disabilities for whose category the post of Bus Conductor has been identified.

- iv. Necessary action as mentioned in Para 9 of this order be also taken in right earnest to avoid any inconvenience, harassment or denial of the entitlement to any person with disability in future.

11. 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."

12. The Complaint is disposed of.

13. Given under my hand and the seal of the Court this 02nd day of December, 2019.



State Commissioner for Persons with Disabilities

(Signature)
(T.D. Dhariyal)

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