

**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. 163/1121/2018/03/7848-50

Dated: 13.06.2018

In the matter of:

Sh. Onkar Nath Dubey
C-141, Street No. 6,
West Karawal Nagar,
Delhi-110094

...Petitioner

Versus

The Medical Superintendent,
Guru Teg Bahadur Hospital,
Govt of NCT of Delhi,
Dilshad Garden,
Delhi-110095.

...Respondent No. 1

The Principal Secretary,
Health & Family Welfare Department,
Govt of NCT of Delhi,
9th Level, A-Wing, Delhi Secretariat,
I.P. Estate, New Delhi-110002.

...Respondent No. 2

Date of Hearing: 24.05.2018

Present: Sh. Onkar Nath Dubey, Complainant
Dr. Rajiv Sagar, Addl. MS, GTB Hospital for respondent No.1
None for respondent No.2

ORDER

The above named complainant vide his complaint dated 15.03.2018 submitted that he is residing in North East District. He applied to G.B. Pant Hospital where he was under treatment for disability certificate. The hospital rejected his application on the

ground of jurisdiction vide letter dated 08.01.2018. The complainant filed an application dated 09.01.2018 for review against the said decision before the Director of that hospital. The Chairman, Disability Certificate Cell, G.B. Pant Hospital vide his letter 26.02.2018 informed him that G.B. Pant Institute of Post Graduate Medical Education & Research (GIPMER) is not in the list of medical authorities for cardiological disability and therefore the complainant was referred to Director, GTB Hospital which is the medical authority in his case.

2. The complainant applied for disability certificate to GTB Hospital. The Medical Superintendent and Staff Physician of that hospital vide his letter dated 08.03.2018 informed him that GTB Hospital does not have Cardiology Department and hence disability certificate for Cardio Pulmonary Disease could not be issued. He also informed that there are no guidelines regarding issuance of disability certificate due to Cardiopulmonary disease. The complainant further submitted that notification No. 16-18/97-NI.I dated 01.06.2001 of Ministry of Social Justice and Empowerment provides for guidelines for evaluation of physical impairment (locomotor disability) due to Cardiopulmonary disease. He, therefore, requested to pass an order as per rules directing any hospital for issuing disability certificate.

3. The matter was taken up with the respondents vide notice dated 23.03.2018. Dr. Rajiv Sagar, Addl. M.S. and Staff Physician, GTB Hospital vide letter dated 06.04.2018 informed the complainant with a copy to this Court that as per the Rights of Persons with Disabilities Act, 2016 the cardiological disability is not covered in the specified disabilities. Further, GTB Hospital does not have Cardiology Department.

4. In view of the statement of respondent No.1 that GTB Hospital does not have any Cardiology Department, Pr. Secretary(Health & Family Welfare), GNCTD was impleaded as respondent No.2 and the matter was scheduled for hearing on 24.05.2018. But neither anyone appeared nor any written submission was made on behalf of the respondent No. 2. Dr. Rajiv Sagar, Addl. M.S. and Staff Physician, GTB Hospital reiterated the earlier statement to that effect and filed a letter dated 23.05.2018. The complainant reiterated his written submissions and requested that he should be issued a disability certificate for locomotor disability.

5. It is true that notification dated 01.06.2001 of Ministry of Social Justice & Empowerment also provides guidelines for evaluation of physical impairment due to Cardiopulmonary disease. As per Para 8.2 of the said notification, there can be six groups based on loss of function due to Cardiopulmonary disease and a person falling under Group 4 would have loss of function to the extent of 75-100%. Para 8 of the said notification is reproduced below:-

“8. Guidelines for Evaluation of Physical impairment due to Cardiopulmonary Diseases.

8.1 Basic Guidelines:-

- 1. Modified New York Heart Association subjective classification be utilised to assess the functional disability.*
- 2. The assessing physician should be alert to the fact that patients who come for disability claims are likely to exaggerate their symptoms. In case of any doubt patients should be referred for detailed physiological evaluation.*
- 3. Disability evaluation of cardiopulmonary patients should be done after full medical, surgical and rehabilitative treatment available, because most of these diseases are potentially treatable.*

4. Assessment of cardiopulmonary impairment should also be done in diseases which might have associated cardiopulmonary problems, e.g., amputees, myopathies, etc.

5. For respiratory assessment, routine respiratory functions test should be done, however, in cases of interstitial lung diseases, diffusion studies may be done.

6. In cases of Angina pectoris (chest pain) base line studies in resting ECG should be done. When there is persistence of symptoms, exercise or stress test should be done.

8.2 The proposed classification with loss of function is as follows:-

Group 0: A patient with cardiopulmonary disease who is asymptomatic (i.e. has no symptoms of breathlessness, palpitation, fatigue or chest pain).

Group 1: A patient with cardiopulmonary disease who becomes symptomatic during his ordinary physical activity but has mild restriction (25%) of his physical activities.

Group 2: A patient with cardiopulmonary disease who becomes symptomatic during his ordinary physical activity and has 25-50% restriction of his ordinary physical activities.

Group 3: A patient with cardiopulmonary disease who becomes symptomatic during less than ordinary physical activity so that his ordinary physical activities are 50-75% restricted.

Group 4: A patient with cardiopulmonary disease who is symptomatic even at rest or on mildest exertion so that his ordinary physical activities are severely or completely restricted (75-100%).

Group 5: A patient with cardiopulmonary disease who gets intermittent symptoms at rest (i.e. patients with bronchial asthma, paroxysmal nocturnal dyspnoea, etc.)”.

6. However, the guidelines dated 04.01.2001 for assessing the extent of specified disabilities included under the Rights of Persons with Disabilities Act, 2016 notified by Department of Persons with

Disabilities do not contain the above mentioned guidelines for evaluation of physical impairment due to Cardiopulmonary diseases. It, however, mentions that a person with scoliosis (a condition in which an individual's spine has lateral or side to side curvature and can be caused by conditions such as cerebral palsy and muscular dystrophy) should be assessed for cardio respiratory limitations and the percentage of PPI on account of chest expansion and counting in one breath can be upto 20% and 25% respectively. Cardiac condition are also to be assessed while assessing and certifying disability due to blood disorder.

7. In light of the position stated above, it is recommended that the complainant should be assessed in accordance with the guidelines dated 04.01.2001 for assessing the extent of specified disabilities under the Rights of Persons with Disabilities Act, 2016. In case he is not found to be a person with disability in accordance with the said guidelines, he should be intimated about rejection of his application for certificate of disability in Form-VIII prescribed in the Rights of Persons with Disability Rules, 2017 notified by Department of Empowerment and Disabilities, Ministry of Social Justice and Empowerment. Non-availability of a particular Department can not be a valid and justified ground for rejecting an application for certificate of disability. GTB Hospital, Shahdara under whose jurisdiction the residence of the complainant falls, can co-opt a cardiologist or can get the cardiopulmonary test done from another hospital and then inform the complainant accordingly.

8. Action taken report be submitted to this Court under intimation to the complainant within 3 months from the date of receipt of this order as required under Section 81 of the Act.

9. Complaint is disposed of.

10. Given under my hand and the seal of the Court this 12th day of June, 2018.

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