

**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, Email: comdis.delhi@nic.in
[Vested with powers of Civil Court under the
Rights of Persons with Disabilities Act, 2016]**

Case No. 2071/1024/2021/01/3011-3012

Dated: 25/10/2021

In the matter of:

Shri Chander Bhushan Rajput,
(Email ID: cbrajput.57@gmail.com)

.....**Petitioner**

Versus

The Director,
Directorate of Education,
Govt. of NCT of Delhi,
Old Secretariat, Delhi - 110054,
Email diredu@nic.in.

.....**Respondent**

Date of Hearing: 30/09/2021

Present: None of the present

ORDER

Whereas a complaint/email dated 07.12.2020 (Copy enclosed)) along with its enclosures received from Chandra Bhushan Rajput, a person with 40% locomotor disability under the Rights of Persons with Disabilities, Act, 2016 herein after referred to as the Act. The complainant inter-alia alleged that his wife got treatment in emergency from a non-penal hospital namely Fortis hospital Shalimar Bagh, New Delhi. He submitted some bills of empanelled hospital namely B.L. Kapoor, Karol Bagh, New Delhi to concerned department for medical reimbursement. But the concerned department has rejected his medical claims. Further, the complainant has submitted he has been aggrieved by denial of stepping-up his pay to Rs. 18460/- (Basic Pay of Rs. 13860 plus Grade pay of Rs. 4600/-) at par with his junior Shri Bhagwati Prasad Grade-II (DASS) (Retired as Grade-I (DASS)) wef 13/01/2006 as per recommendations of 6th CPC and clarification issued in this regard from time to time by the Services Department, Govt. of NCT of Delhi and DoPT, Govt. of India as well.

2. And whereas the matter was taken up with Directorate of Education, Govt. of NCT of Delhi and summons to appear U/s 82 of the RPWD Act, 2016 was issued to the respondent to appear in the court at 11.30 am on 30/9/2021 vide No 2071/1024/2021/01/1687-88 dated 17/9/2021 to present their case with all related documents so as to dispose of the matter The respondent was also asked to produce any other documents, inputs etc. related to the case in support of their defense.

3. However, complainant vide email dated 21/9/2021 informed that concerned HoS has cleared all his pending medical bills. But another case of stepping-up of pay is still pending.

4. And whereas the respondent vide letter No. F.DDE(NW BY/SCPD/2021/873 dated 29/9/2021 has submitted as under

" as far as matter of stepping up of pay is concerned, it is submitted that Sh. ChanderBhushan Rajput, Grade-1 (Retd.) earlier requested for stepping up his pay at par with Shri N.k. Yadav which was returned by DCA (North) with the remarks that both are of different cadre, hence, it is not a fit case for stepping up. Further, the complainant submitted that he has not requested for considering his stepping up of pay in comparison to Sh. N.K. Yadav and further stated that he only wanted that his pay may be brought at par with Shri Bhagwati Prasad. The case was re-submitted to DCA (North) which was again returned back with the remarks that Stepping up at par with Shri Bhagwati Prasad has already been rejected by A.O (P&PF) as Shri ChanderBhushan Rajput, Grade-I (Retd.) was appointed as LDC under Gen. OH category whereas Shri Bhagwati Prasad was appointed as LDC under SC category. Seniority of both officials are being maintained separately being initially appointed under different category."

5. The respondent has also informed that the matter was taken up by Public Grievance Commission, Govt. of NCT of Delhi which was filed with PGC by ADE (NW-B) wherein PGC opined that demand of Shri C.B. Rajput for stepping-up his pay in comparison to Shri Bhawati Prasad was not justified and could not be considered as per provision of Rule-27 under

FR-27 quoting both the junior and senior doesn't belong to same cadre. The Commission disposed of the case with following remarks:

"that the Commission is satisfied that whatever stand is taken by the department is correct and cannot be revised. However, the complainant is free to approach other forums for redressal of his grievance."

6. The complainant has now approached this court with a ray of hope for justice and a belief that he may not be deprived of his right of stepping up his pay at par with his junior.

7. In the interest of justice and with a motive to ensure that a person with disability shall not be discriminated on the grounds of disability, unless it is shown that impugned act or omission is a proportionate means of achieving legitimate aim, the matter has been examined at length taking into account the CCS (RP) Rules, 2008 and various orders and clarifications issued in this regard from time to time.

8. The court observed that Shri Chander Bhushan Rajput, now retired as Grade-1 (DASS) had been drawing higher pay in the pre-revised scale as a Grade-II (DASS) but started drawing lower pay in comparison to his junior Shri Bhagwati Prasad, Grade-II (DASS), w.e.f. 13.01.2006. The court also went through the pay fixation orders, the complainant submitted in support of his claim.

9. The court has reached on the conclusion that the pay anomaly was that the officials who have been promoted/getting benefit of ACP between 01/01/2006 to 31/8/2006 were having facilities of giving options to fixation of his pay from the date of promotion/financial up gradation under ACP scheme which took place after 01/01/2008 in the revised pay scales with reference to the fitment table of upgraded pay scale Le pre-revised scale Rs. 7450-11500.

10. Shri Bhagwati Prasad Grade-II (DASS) has got promoted/getting benefit of ACP w.e f. 13/1/2006 and has given option for fixation of his pay from the date of promotion/ up-gradation Le 13/01/2006 with reference to the fitment table of upgraded pay scale le. Pre-revised scale of Rs. 7450-11500. As such his pay was fixed Rs. 13860+Rs. 4600 = Rs. 18460 (in PB-2, of Rs 9300-3400+ Grade Pay 4800), whereas his actual pay on 01/01/2006 was Rs. 5400/- in the pay scale of Rs 4000-6000 (Copy of UO No. 10/1/2009-IC dated 14/12/2009 issued from DoPT is enclosed)

11. On the other hand the pay of Shri Chander Bhushan Rajput, Grade-II (DASS) (now retired as Grade-1 (DASS) being senior employee who got benefit under ACP/promotion prior to 01/1/2006, was fixed as per pre

revised scale of Rs. 5000-150-8000 (actual) and Rs 5500-175-9000(notional).

and revised Pay Band-2 of Rs. 9300-34800 with grade pay of Rs. 4600 w.e.f. 01/1/2006 i.e. $12540 + \text{Rs. } 4600 = 17140$.

12. As a result Shri ChanderBhushan Rajput, Senior employee who got his promotion prior to 01/1/2006 began drawing less pay w.e.f. 13.01.2006 than his junior Shri Bhagwati Prasad who got benefits under ACP scheme on 13/01/2006 (i.e. between 01/1/2006 and 31/3/2008).

13. As per CCS (RP) Rules 2008, stepping-up of pay of senior promoted prior to 01/01/2006 and drawing less pay than their junior promoted/upgraded after 01/01/2006, is admissible as per note-10 under Rule-7 of CCS (Revised Pay) Rules, 2008.

14. In this regard a Circular vide No. 20/17/2015/S-I/Lit/2938 dated 25/8/2015 was issued by Services Department regarding clarifications on stepping-up of pay which suggest to settle the pay anomaly occurred due to the application of Rule-7 of CCS (Revised Pay) Rules, 2008, at administrative departments level subject to fulfilment of conditions laid down in Note 10 below Rules-7 of CCS (RP) Rules, 2008 in consultation with respective Integrated Finance/Advisor (IFA) of the department.

15. The court therefore recommends the Director, Directorate of Education should personally look into the matter and peruse the relevant papers/file so that the decision in the matter is not delayed now and the complainant is denied any benefits that he is entitled to under rules and he is not made to run from pillar to post. It may also be ensure the complainant is not subjected to any harassment.

16. The Action Taken Report be submitted to this court within 03 months from the date of receipt of this order under intimation to the complainant as required under Section- 81 of the Act. The matter is disposed of accordingly.

17. Given under my hand and the seal of the Court this 22nd day of October 2021.

Encls: As above

(Ranjan Mukherjee)
State Commissioner for Persons with Disabilities