

**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. 1929 /1024/2020/09/1333-1335

Dated:26-08-21

In the matter of:

Shri Raj Kumar Singh,
SE-321, Shastri Nagar,
Ghaziabad, U.P.-201002.
(Email ID: - rajkumarsingh335@gmail.com)

.....**Complainant**

Versus

The Director,
Directorate of Education,
Old Secretariat,
Delhi-110054.

.....**Respondent No.1**

The Principal/HOS,
DAV Public Sr. Secondary School,
Jangpura, New Delhi-110014

.....**Respondent No.2**

Date of hearing: 24.08.2021

Present: Sh. Raj Kumar Singh, Complainant
Sh. Rahul Dev, Legal Asstt., DOE on behalf of
Respondent No.1
Sh. Kiran Bage, Vice Principal and Sh. Sunil Kumar,
ASO , DAV, SSS, Jangpura on behalf of Respondent
No. 2

ORDER

The complainant, a person with 52% locomotor disability vide his complaint dated 23.08.2020 submitted that he is eligible for the benefits of 1st financial up-gradation under MACP scheme, 2008 w.e.f. 05.08.2018 but no benefit is given to him till now.

2. The matter was taken up with the respondents vide letter dated 03.09.2020 and followed by reminders dated 05.11.2020, 25.03.2021 and Show Cause Notice dated 05.07.2021.

3. Respondent No. 2 vide letter dated 20.07.2021 submitted that the 1st Financial up-gradation under MACP Scheme could not be granted to the complainant as his ACR for the year 2015-16 is pending for review. A letter dated 16.03.2019 had been sent to DDE Zone-25, South East. Also, ACRs of the complainant for the years 2016-2017 and 2017-2018 are 'Average' and 'Good' respectively i.e. below benchmark and file in this regard is under submission for further process to DDE Zone-29, South East sent vide letter dated 07.09.2020. Further action will be taken after receipt of the reply.

4. Vide rejoinder dated 23.07.2021, the complainant submitted that he was not satisfied with the reply of respondent No. 2 as he was not communicated his ACR appraisal.

5. A hearing was scheduled on 24.08.2021. The complainant submitted that the above mentioned grading in his ACR for the relevant years should have been communicated to him within prescribed time limit. The school authorities had not followed the relevant rules. The complainant also mentioned about a similarly placed case in which grading of ACR was reviewed from 'Average' to 'Very Good' on the basis of un-communicated adverse grading in ACR.

6. The representative of Respondent No. 1 pleaded that 'Average' and 'Good' grading of ACR is not adverse and hence could not be communicated to the complainant. Representative of Respondent No. 2 mentioned about a Show Cause Notice dated 28.09.2017 issued to the complainant regarding refusal to teach 'Chemistry' to the students of Science Stream Classes XI & XII besides his routine periods as an internal arrangement for the time being as there is shortage of teaching staff.

7. The complainant submitted that he had already requested the HOS, DAV Senior Secondary School, Jungpura vide his letter dated 14.09.2017 that he was not comfortable with the subject as he is PGT Physics and M.Sc in Physics and not in Chemistry. He tried to teach the Chemistry but failed to do the justice to students and therefore requested to relieve him from this subject. He never refused to take the classes of 'Chemistry' and took the classes for the complete year.

8. After due deliberations and discussion held, the court is of the opinion that enough caution has not been exercised in this particular regard. The crux is that the complainant has not given the benefit of MACP which should have been granted to him. In view of the above, the case is disposed of with the following recommendations:-

- (i) Respondent No. 2 should process the case for grant of first financial up-gradation under MACP scheme with effect from the restrospective date it was due to the complainant, after following the procedure/rules.
 - (ii) DoE should take into consideration the vacant posts of teaching staff in the school and arrange to fill the same urgently.
9. An action taken report is to be filed post actions accomplished.
10. Given under my hand and the seal of the Court this 25th day of August, 2021.

(Ranjan Mukherjee)
State Commissioner for Persons with Disabilities