

**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-110002**

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**[Vested with powers of Civil Court under the Rights of Persons with Disabilities Act, 2016]**

**Case No. 3128/1024/2023/08/1107-1108**

**Dated:12-12-2023**

**In the matter of:**

**Shri Shalendra Malik**

**..... Complainant**

**Versus**

**The Additional Director (Administration),  
Education Department (HQ),  
Municipal Corporation of Delhi**

**..... Respondent**

**Date of Hearing : 08.12.2023**

**Present:** Shri Shalendra Malik, Complainant  
Shri Ashok Kumar Sharma, School Inspector, Education Department,  
Shahdara (North) District, MCD, on behalf of Respondent

**ORDER**

The complainant, a person with 45% locomotor disability and working as Teacher in MCD Primary School, filed a complaint dated 03.08.2023 under the Rights of Persons with Disabilities, Act, 2016, hereinafter referred to as Act. The complainant submitted that he was not granted MACP benefits as the department was not taking decision regarding his absence from duty.

2. The matter was taken up with the respondent vide this court letter dated 28.08.2023 and show cause notice dated 12.10.2023. As no response was received from respondent, a hearing was scheduled on 08.12.2023.

3. During the hearing, the complainant submitted that due to his physical, economic and mental condition, he proceeded on leave without informing the department w.e.f. 13.01.2006 to 28.04.2006. After that there were summer vacations from 30.04.2006 to 30.06.2006. The complainant did not join till

10.10.2006 and resumed duties w.e.f. 11.10.2006. Leave w.e.f. 13.01.2006 to 28.04.2006 was sanctioned but rest of the absence was not decided.

4. Representative of respondent submitted reply dated 06.12.2023 during the hearing, stating that the complainant remained absent without any intimation for 106 days. Pending inquiry, the complainant was directed to resume the duties but the complainant could join after 271 days. It was further submitted that some noting sheets were missing from the personal file of the complainant for which a committee had been constituted. Apparently, this can only benefit the complainant. The complainant had been sanctioned leave for 106 days and presently the file is under submission for treating remaining period of absence as dies non without break in service. As soon as the decision is taken by the higher authorities, the request of the complainant will accordingly be considered.

5. The Court observed that respondent is not sensitive towards the persons with disabilities. On the plea of the respondent that the concerned authorities are yet to take decision on his period of absence, the complainant confirms that after due process his leave of absence for 106 days on medical and health grounds was approved 'without pay'. Moreover there is no fault of the complainant if the remaining period of absence is yet to be decided by the respondent. Further, the suspicion of respondent regarding missing note sheets with ulterior motive of the complainant behind it does not make any sense to withhold the MACPs to the complainant.

6. Taking into account the submission of the complainant and the reply of the respondent, the Court directs that both the MACPs of the complainant should be granted and Action Taken Report be submitted to that effect within next 45 days.

7. Given under my hand and the seal of the Court this 11<sup>th</sup> day of December, 2023.

**(Ranjan Mukherjee)**  
**State Commissioner for Persons with Disabilities**