



सत्यमेव जयते

न्यायालय मुख्य आयुक्त विकलांगजन
COURT OF CHIEF COMMISSIONER FOR PERSONS WITH DISABILITIES
विकलांगजन सशक्तिकरण विभाग / Department of Empowerment of Persons with Disabilities
सामाजिक न्याय और अधिकारिता मंत्रालय / Ministry of Social Justice and Empowerment
भारत सरकार / Government of India

Case No.4904/1011/2015 / 10370

Dated:04-10-2016

In the matter of

Shri Pratik Nikam,
C5, Premraj Residency
Anand Nagar, Old Sangvi,
PUNE - 411027 (Maharashtra)

..... Complainant

Versus

Employees Provident Fund Organization
Through the Regional P.F. Commissioner-II,
Ministry of Labour & Employment, Govt. of India,
Bhavishya Nidhi Bhawan, 14, Bhikaji Cama Place,
New Delhi-110066

..... Respondent

Case No. 4710/1011/2015

In the matter of:-

Shri Karanbir Singh Randhawa
<randhawakaranbir@gmail.com>

..... Complainant

Versus

Employees Provident Fund Organization
Through the Regional P.F. Commissioner-II,
Ministry of Labour & Employment, Govt. of India,
Bhavishya Nidhi Bhawan, 14, Bhikaji Cama Place,
New Delhi-110066

..... Respondent

Case No.: 4805/1011/2015

In the matter of:-

Shri Rizwan Basha,
rizwanbasha.cse@gmail.com

..... Complainant

Versus

Employees Provident Fund Organization
Through the Regional P.F. Commissioner-II,
Ministry of Labour & Employment, Govt. of India,
Bhavishya Nidhi Bhawan, 14, Bhikaji Cama Place,
New Delhi-110066

..... Respondent

Date of Hearing : 06.06.2016, 08.07.2016

Present :

06.06.2016

1. Dr. Anil K. Aneja on behalf of Shri Pratik Nikam, the Complainant.
2. Complainant Shri KaranbirSingh Randhawa absent.
3. Complainant Shri Rizwan Basha absent.
4. Sh. Sanjay Bisht, RPFC-I (HRM) with Shri Uma Kant, Assistant on behalf of the Respondent.

08.07.2016

1. Complainant Shri Pratik Nikam absent.
2. Complainant Shri Karanbir Singh Randhawa absent.
3. Complainant Shri Rizwan Basha absent
4. Sh. Sanjay Bisht, RPFC-I (HRM) with Shri Uma Kant, Assistant on behalf of the Respondent.

O R D E R

The above named complainants, persons with 40% visually impaired filed complaints dated 26.06.2015 (Case No. 4904/1011/2015), 03.07.2015 (Case No. 4710/1011/2015) and 03.07.2015 (Case No. 4805/1011/2015) respectively before the Chief Commissioner for Persons with Disabilities under the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, hereinafter referred to the 'Act' regarding not reserving vacancies for Blind/Low vision (B/LV) in recruitment of Assistant Provident Fund Commissioner (2015).

2 The complainants have submitted that UPSC vide Special Advertisement No.52/2015 had advertised the recruitment notification of Assistant Provident Fund Commissioner (Group 'A' Non Ministerial) in Employees Provident Fund Organization (EPFO). They have requested that the persons with visual impairment be allowed to apply for the post of Assistant Provident Fund Commissioner in Employees Provident Fund organization, Ministry of Labour and Employment.

3 The matter was taken up under Section 59 of the Act with the respondent vide this Court's letter dated 10.08.2015, 23.07.2015 and 29.07.2015 directing the respondent to intimate action taken in the matter.

4 The respondent vide letter No. HRM-II/Misc./Roster/2015/13500-3 dated 09.10.2015 has inter-alia submitted that EPFO is accounts oriented organization and duties of Assistant Provident Fund Commissioner includes maintenance of members accounts of P.F., subscribers, payment of members, deduction of TDS etc. Further, Assistant Provident Fund Commissioner's falls under Junior Time Scale and as per Ministry of Social Justice & Empowerment's Notification dated 29.07.2013, the post of Junior Time Scale and Senior Time Scale are suitable for OH and HH candidates only and these posts are not suitable for VH candidates. He further submitted that a W.P. (Civil) No.7005/2015, CM No 128839/2015 has also been filed by Shri Prateek Jain before Hon'ble High Court of Delhi on this subject matter. Hon'ble High Court Delhi vide order dated 11.08.2015 has taken a view that jurisdiction in such cases lies with CAT

5 The complainant Shri Pratik Hanmant Nikam (Case No.4904/1011/2015) vide rejoinder dated 21.01.2016 has submitted that the nature of jobs/duties of APFC are identifiable for persons with low vision. Hence EPFO should take initiate to identify them.

6 The complainant Shri Karanbir Singh (Case No. 4710/1011/2015) vide rejoinder dated 03.12.2015 has submitted that as per list of identified posts, 2013, several Group 'A' posts like Indian

Revenue Services (Income Tax), Indian Corporate Law Services etc., are identified for Blind/Low vision. Regarding decision in W.P. (Civil) No.7005/2015 mentioned by defendant, it is pleaded that the case is filed before Court of CCPD, which has been mandated to take steps to safeguard the rights and facilities to the persons with disabilities.

7. Upon considering the respondent's letter dated 09.10.2015 and complainant's rejoinders dated 21.01.2016 and 03.12.2015, a hearing was scheduled on 06.06.2016.

8. As per Record of Proceedings dated 09.06.2016, the hearing was adjourned to 08.07.2016.

9. During the hearing on 08.07.2016 none appeared on behalf of the complainants. Nor any intimation has been received about their inability to attend the hearing despite the fact that the copy of the Record of Proceedings was sent on 09.06.2016 by Speed Post. The Court noted with serious concern, the utter disregard shown by the complainants by neither intimating their inability to attend the hearing nor caring to send their versions of their cases.

10. The representative of the respondent submitted that the complainants have made claim that there should be reservation for candidates having low vision in the post of Assistant Provident Fund Commissioner which is being filled up on direct recruitment basis through Union Public Service Commission. After receiving the Notice from the CCPD, this office has replied vide letter HRM-III/Misc./Roster/2015/13500-03 dated 09.10.2016. In EPFO, the post of Assistant Provident Fund Commissioner has been identified only to be filled from the candidates belonging to OH and HH categories. The post has not been identified to be filled from candidates belonging to low vision as this attributes to the post to perform the statutory duties under the provisions of Employees' Provident Funds and Miscellaneous Provisions Act, 1952. The statutory duties are mainly to perform the quasi-judicial functions to hear the matters connected with disputes relating to applicability of the EPF & MP Act. It also involves assessment of dues in respect of defaulting establishments covered under the Act. The Assistant Provident Fund Commissioners have to further exercise powers to recover the dues from the defaulting establishments as Recovery Officer. These powers include attachment of properties, search and seizure of records and in hard cases, to go for arrest of the defaulters to recover the dues. In addition to this, the Assistant Provident Fund Commissioner has to keep track of the investment and Bank reconciliation with the extensive use of computer in a on-line environment. Taking these nature of duties, the post has been only identified for to be filled from the candidates belonging to OH and HH categories.

11. In compliance of judgment dated 08.10.2013 of Hon'ble Supreme Court of India in Civil Appeal No. 9096 of 2013 (arising out of SLP (Civil No. 7541 of 2009) titled Union of India & Anr. Vs. National Federation of the Blind & Ors., the Department of personnel & Training vide O.M. No.36012/24/2009-Estt (Res) dated 03.12.2013 ahs modified para 14 of its O.M. No.36035/3/2004-

Estt.(Res) dated 29.12.2005 to the effect that Reservation for persons with disabilities in Group 'A' or Group 'B' posts shall be computed on the basis of total number of vacancies occurring in direct recruitment quota in all the Group 'A' posts or Group 'B' posts respectively, in the cadre. Thus, the backlog of reservation for persons with disabilities will undergo considerable change and in all likelihood, most of the establishments will have backlog.

12. Department of Personnel & Training further in compliance of the Directions of the Hon'ble Supreme Court in its Judgment dated 08.10.2013 referred above, in para 10 vide its O.M. No.36035/4/2013-Estt.(Res) dated 29.12.2005 to the extent that "Reservation for persons with disabilities in Group 'A' or Group 'B' posts shall be computed on the basis of total number of vacancies occurring in direct recruitment quota in all the Group "A" posts or Group "B" posts respectively in the cadre." Separate roster for Group 'A' posts, and Group 'B' posts in the establishment shall be maintained.

13. DOP&T vide its O.M. No.36012/39/2014-Estt. (Res) dated 22nd May, 2015 had issued instructions regarding special recruitment drive to fill up the vacancies for persons with disabilities and has fixed 01.02.2016 as the target date for issuing offer of appointments to the selected candidates.

14. As per Note 2 of Notification of Ministry of Social Justice and Empowerment, Department of Disability Affairs (now Department of Empowerment of Persons with Disabilities) dated 29.07.2013, the list of posts being notified is not an exhaustive list. The Ministries, Departments, Public Sector Undertakings and the autonomous bodies may further supplement the list.

15. After hearing the parties and perusal of the record available in the file, the instructions issued by the DoP&T vide its O.Ms referred above and the Note-2 of the Ministry of Social Justice & Empowerment, Department of Disability Affairs (now Department of Empowerment of Persons with Disabilities) Notification No. 16-15/2010-DD III dated 29.07.2013, the respondent is directed to consider the matter and to reserve the post of Assistant Provident Fund Commissioner for persons with Low Vision in future examinations.

16. The case is disposed off.



(Dr. Kamlesh Kumar Pandey)
Chief Commissioner
for Persons with Disabilities