



सत्यमेव जयते

न्यायालय मुख्य आयुक्त निःशक्तजन
Court of Chief Commissioner for Persons with Disabilities
सामाजिक न्याय एवं अधिकारिता मंत्रालय
Ministry of Social Justice & Empowerment
निःशक्तता कार्य विभाग / Department of Disability Affairs

Case No.744/1011/11-12

Dated:- 04.06.2014

In the matter of:

D. Shivraj N. Herur,
H.No. 12, Sharanabasveshwara Temple,
Campus,
Gulbarga – 585103 (Karnataka)

..... Complainant

Versus

Central university of Karnataka,
Through the Registrar,
2nd Floor, Karya Soudha, Gulbarga,
University Campus,
Gulbarga – 585 106 (Karnataka)

..... Respondent

Date of hearing : 08.05.2014

Present :

1. Dr. Shivraj N. Herur, the Complainant.
2. None on behalf of Respondent.

O R D E R

The above named complainant, a person with blindness filed a complaint dated 10.06.2013 under the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, hereinafter referred to as the Act regarding injustice meted out to him in the matter of his selection to the post of Assistant Professor.

2. The complainant submitted that he had applied for the post of Assistant Professor, Kannada in response to an advertisement published by Central University of Karnataka, Gulbarga. The post was reserved for persons with visual impairment. Though he was the only applicant, yet his name was not considered for the post. He was informed that there must be three eligible persons to conduct interview for the post.

3. Para 25 of the Department of personnel & Training's O.M. No.36035/3/2004-Estt.(Res) dated 29.12.2005 provides that the following should invariably be mentioned in all recruitment notices/advertisements in accordance with :-

.....2/-

- i. Number of vacancies reserved for sub categories of disabilities – whether the vacancy is reserved for blind or low vision; persons suffering from hearing impairment; locomotor disability; or cerebral palsy;
- ii. In case of vacancies in posts identified suitable to be held by persons with disabilities, it shall be indicated that the post is identified for persons with disabilities, suffering from blindness or low vision; hearing impairment; and/or loco-motor disability or cerebral palsy, as the case may be, and that the persons with disabilities belonging to the category/categories for which the post is identified shall be allowed to apply even if no vacancies are reserved for them. Such candidates will be considered for selection for appointment to the post by general standards of merit.
- iii. In case of vacancies in posts identified suitable for persons with disabilities, irrespective of whether any vacancies are reserved or not, the categories of disabilities viz. blindness or low vision, hearing impairment and loco-motor disability or cerebral palsy, for which the post is identified suitable alongwith functional classification and physical requirements for performing the duties attached to the post shall be indicated clearly.
- iv. That persons suffering from not less than 40% of the relevant disability shall alone be eligible for the benefit of reservation.
- v. Relaxation in upper age limit, exemption from payment of examination fee etc.

4. The matter was taken up u/s 59 of the Act with the Registrar, Central University of Karnataka, Gulbarga vide this Court's letter dated 22.07.2013 followed by reminder dated 16.09.2013.

5. The Registrar, Central University of Karnataka vide letter No.CUK/Admn-III/F-713/2013-14/55 dated 23.09.2013 inter-alia submitted that the University vide their letter dated 26.04.2012 had informed this Court that the university proposes to re-notify the post where the persons who have already applied will be considered and need not apply. He further submitted that the university has issued rolling advertisement for recruitment of Assistant Professor in various Departments vide Notification No.14/2013. The university will consider his application and he need not apply again. He may appear for interview based on his previous application.

6. The complainant in response to respondent's reply vide his letter dated 09.03.2014 inter-alia submitted that the earlier notification no.6/2011 was for recruitment to teaching positions and the vacancy of Assistant Professor in Kannada Literature and Culture was exclusively reserved for persons with visual impairment. But in the notification No.14/2013, rolling advertisement for appointment of Assistant professor in various Departments was published. The vacancy in Kannada Literature and Culture was not exclusively reserved for persons with visual impairment and thus the process of reservation had been violated by the university. He contended that the authorities of the

university were purposely and deliberately postponing the interview date for the appointment of Assistant Professor in Kannada Literature and Culture. As he is the only candidate with visual impairment eligible for the post, he should be given an opportunity to become an Assistant Professor in Kannada.

7. Upon considering the replies dated 30.01.2014 of the respondent and the complainant's rejoinder dated 09.03.2014, a hearing was scheduled on dated 08.05.2014.

8. On the date of hearing on 08.05.2014, none appeared on behalf of the respondent despite the Notice of hearing dated 07.04.2014, which is a matter of concern.

9. The complainant reiterated his written submissions and submitted that the process of recruitment for the post of Assistant Professor in Kannada Literature & Culture was initiated in the year 2011. The decision to apply the general rule that the post would be re-advertised if there is only one applicant is not correct in case of vacancies reserved for persons with disabilities, particularly in the face of the fact that the Central University of Karnataka has not appointed any person with disability so far as is evident from Annexure-II with their letter dated 26.04.2012 submitted to this Court. The University will fill all the posts which have been advertised alongwith the post of Assistant Professor of Kannada, for which he had applied. The respondent University has not interviewed him even after re-advertising the post which the University has called the rolling advertisement. The withdrawal of the said rolling advertisement for the post of Assistant Professor Kannada appears to be deliberate attempt to defeat the very purpose of section 33 of the PwD Act and denying him the opportunity of appointment to a reserved vacancy for person with blindness/low vision. Although as per Annexure-I to the letter of the respondent University dated 26.04.2012 that the candidates who may have applied earlier need not apply again, there is lurking apprehension that by the time the post is advertised for the third time, the complainant's candidature may be turned down on the plea that he has crossed the upper age limit for candidates with disabilities. In any case, any delay in appointment of the complainant will be an irreparable loss to him financially as well as professionally. Even going by the university's own stated position, it is amply apparent that the complainant will have to be interviewed and if otherwise found eligible and fit, has to be appointed when the post is advertised for the third time even if he is the lone candidate. This Court is thoroughly convinced that by withdrawing the so-called rolling advertisement Notification No.14/2013 in the context of the post of Assistant Professor of Kannada Literature & Culture has manifestly deprived the candidates with visual disability, more particularly the complainant, of the opportunity of being considered for the said post.

10. It is observed that the respondent vide letter No.CUK/Admn.IV/F-105/2012-13/129 dated 26.04.2012 has stated that their University has filled up 64 vacancies in Group 'A', 8 vacancies in Group 'B' and 33 vacancies in Group 'C' respectively. The complainant's contention is that no person with disability has been appointed so far. If the complainant's contention is correct, then apparently, there is violation of Section 33 of PwD Act.

11. In the above view of the matter, the respondent is directed to advertise the reserved vacancy of Assistant Professor in Kannada without any further loss of time, in any case within one month from the date of receipt of this Order under intimation both to the complainant and this Court and interview the complainant alongwith other eligible candidates, if any, within three months from the date of publication of the advertisement. A copy of this Order be marked/endorsed to Secretary, UGC with a request to bring this matter to the notice of the Committee constituted for the purpose of monitoring effective implementation of reservation for persons with disabilities in the various Universities across the country.

12. The matter stands disposed off with the above directions.

Sd/-

(P.K. Pincha)
Chief Commissioner
for Persons with Disabilities

Copy to:

Secretary, University Grants commission, Bahadurshah Zafar Marg, New Delhi for information and necessary action.