



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.119/1013/12-13

Dated:-16.05.2013

In the matter of:

Shri Gajanan Sheshrao Koturwar
Gandhi Ward, No. 17
Tal. – Kelapur, District – Yavatmal
Maharashtra – 445 302

..... Complainant

Versus

Coal India Ltd.
Through the Chairman-cum-Managing Director
10, Netaji Subhash Road
Kolkata – 700 001.

.... Respondent

Date of hearing : 07.05.2013

Present :

1. Shri Gajanan Sheshrao Koturwar, complainant.
2. Shri K. Praveen Kumar, General Manager on behalf of Respondent.

O R D E R

The above named complainant, a person with 40% visual impairment filed a complaint dated 12.09.2012 under the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, hereinafter referred to as the Act regarding unfair selection for the post of Deputy Public Relation Manager/Senior Public Relation Manager in Coal India Limited.

2. The complainant submitted that Coal India Ltd. advertised 07 vacancies of Deputy Public Relations Manager/Senior Public Relation Manager. Out of 07 vacancies 01 vacancy was reserved for persons with disabilities against which he applied. Only 04 candidates were selected to the post and none of the person with disability was selected.

3. The matter was taken up with the Chairman-cum-Managing Director vide letter dated 26.10.2012.

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4. General Manager (Pers./Rectt), Coal India Ltd.(CIL) vide letter no. CIL:C5A(i):50235:PH 1037 dated 21.12.2012 submitted the comments in the matter. He submitted that facts mentioned by the complainant are wrong. Out of 06 advertised vacancies, 04 have been filled and only 02 remained vacant (01 Gen, 01 SC including PH). The reservation for persons with disabilities being horizontal, it is not an additional post but kept reserved out of the unfilled posts. The selection to the advertised post was on the basis of interview only with weightage for qualification, experience and personal interview as per adopted by the Selection Board. The minimum marks required for selection (i) For Unreserved/Gen category candidates is 60%,(ii) for OBC category is 55%, (iii) for SC/ST/PH categories is 50%. The reserved category candidates including PH category were examined on relaxed norms but the complainant failed to secure the minimum required 50% marks also. Though the complainant was eligible as per advertised norms and he was not recommended by the committee for appointment.

5. The copy of reply was forwarded to complainant for submitting his comments/rejoinder vide this court letter dated 28.02.2013.

6. The complainant vide letter dated 05.02.2013 has submitted the objections about the procedure adopted by the selection board of the CIL. As per him, selection for the above mentioned post was done on the basis of the interview conducted and he feels that the respondent should prepare a merit list and higher merit candidate should be recruited on basis of reservation. His complaint is that this due procedure was not adopted by the CIL during the recruitment. Had it been adopted no post would have remained vacant and would not have been any injustice against any candidate. In the advertisement the selection procedure did not mention minimum marks in the interview. He has requested that direction may be given to CIL to fill up the post reserved for persons with disabilities on priority basis.

7. Upon considering the reply dated 21.12.2012 of the respondent and the complainant's rejoinder dated 05.02.2013, the case was fixed for hearing on 07.05.2013.

8. During the hearing, the complainant reiterated his written submissions and submitted that the selection was only on the basis of interview and that two vacancies are still lying vacant, out of which one is reserved for persons with disabilities. As the complainant fulfills all the eligibility conditions according to the advertisement, he may be appointed against the reserve vacancy.

9. The representative of the respondent reiterated his written submissions and submitted that the selection was made on the basis of interview by a Selection Board in which Managing Director was the Chairman and the other officers were members. Minimum marks were fixed for selection for different categories viz. for General Category – 60 marks, for Other Backward Classes – 55 marks and for Scheduled Castes and Persons with Disabilities – 50 marks out of 100. After further relaxing the

eligibility criteria, the complainant was not found suitable as he got only 40 marks out of 100. Hence his selection could not be made by the Selection Committee.

10. In the above view of the matter, this Court observes that it appears that a total number of 2 vacancies still remain vacant, out of which one was reserved for persons with disabilities, the reservation being horizontal in nature. It is further observed that both the posts are still being kept vacant including the reserved post despite the fact that a candidate with disability meeting all the eligibility criteria was available. It would be pertinent to note here that Department of Personal & Training's O.M. No.36035/3/2004-Estt.(Res) dated 29.12.2005 in general and para 22 in particular is relevant which reads as under:-

“22. RELAXATION OF STANDARD OF SUITABILITY: *if sufficient number of persons with disabilities are not available on the basis of the general standard to fill all the vacancies reserved for them, candidates belonging to this category may be selected on relaxed standard to fill up the remaining vacancies reserved for them provided they are not found unfit for such post or posts. Thus, to the extent the number of vacancies reserved for persons with disabilities cannot be filled on the basis of general standards, candidates belonging to this category may be taken by relaxing the standards to make up the deficiency in the reserved quota subject to the fitness of these candidates for appointment to the post/posts in question.”*

11. In view of this, respondent Coal India Limited is hereby advised to take a fresh look at the complainant's candidature by relaxing the standards within a period of 60 days from the date of receipt of this order by them under intimation to this Court.

12. The matter stands disposed of.

Sd/-

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