



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.583/1041/2013

Dated:- 26.05.2014

In the matter of:

Shri Ramchandra Kank,
45/7, Old Type-III,
Ordnance Estate,
Khadki Bazar,
Pune – 411003 (Maharashtra)

..... Complainant

Versus

Ordnance Factory,
Through the General Manager,
Yaddumailaram,
Medak District – 502205 (Andhra Pradesh)

..... Respondent No.1

Ministry of Defence,
Through the Secretary,
Department of Defence Production,
South Block, New Delhi-110011.

..... Respondent No. 2

Ordnance Factory Board,
Through the Secretary,
Ayudh Bhawan, 10-A, S.K. Bose Road,
Kolkata – 700 001.

.... Respondent No. 3

Date of hearing : 22.04.2014

Present :

1. Shri Ram Chandra Kank, complainant.
2. S/Shri B.S. Reddy, JGM/A, Amlan Das, Under Secretary, Sharda Prasad, Dy. Secretary, on behalf of respondent.

O R D E R

The above named complainant, filed a complaint dated 06.08.2013 under the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, hereinafter referred to as the Act regarding not providing/allowing scribe/write to his son Shri Manjit R. Kank, a person with 40% visual impairment in the written examination held on 14.07.2013 for the post of Storekeeper conducted by Ordnance Factory, Yeddumailaram, Medak District (Andhra Pradesh).

2. The complainant submitted that his son, Shri Manjit Ramachandra Kank appeared in the examination held on 14.07.2013 at Ellenki Engineering College Patelguda, Patacheru (Hall Ticket

.....2/-

No.111217559). He was not provided a scribe by the Exam Conducting Body nor was he allowed to arrange and bring on the scribe of his own to write his exams. He further submitted that the Joint General Manager/Admn, Ordnance Factory, Yeddumailaram vide letter dated 22.07.2013 had intimated the complainant that a person with disability who wishes to seek writer's help, should make a separate written request well in advance mentioning complete details about his/her name and candidate's registration number and complete postal address and mobile number specifying nature and extent of his/her permanent disability, in addition to submitting his/her enrolment application for appearing in the examination. In case of complainant's son, if such request would have been received, accordingly, the examination body would have identified the scribe/reader/helper by making panels as per the requirement of the examination. Intimation about the grant of writer's help would have been sent to the candidate before commencement of the examination. The complainant's son was still allowed to take the examination held on 14.07.2013.

3. Clause III, IV, V, IX of the guidelines issued by the Ministry of Social Justice and Empowerment, Department of Disability Affairs vide their OM Nop.16-110/2003-DD.III dated 26.02.2013 are reproduced below:-

- (iii) The facility of Scribe/Reader/Lab Assistant should be allowed to any person who has disability of 40% or more if so desired by the person.
- (iv) The candidate should have the discretion of option for his own scribe/reader/lab or request the Examination Body for the same. The examining body may also identify the scribe/reader/lab assistant to make panels at the District/ Ion/State level as per the requirements of the examination. In such instances the candidates should be allowed to meet the scribe a day before the examination so that the candidates get a chance to check and verify whether the scribe is suitable or not.
- (v) Criteria like educational qualification marks scored, age or other such restrictions for the scribe/reader/lab assistant should not be fixed. Instead, the invigilation system should be strengthened, so that the candidates using scribe/reader/lab assistant do not indulge in malpractices like copying and cheating during the examination.
- (ix) The procedure of availing the facility of scribe should be simplified and the necessary details should be recorded at the time of filling up of the forms. Thereafter, the examining body should ensure availability of question papers in the format opted by the candidate as well as suitable seating arrangement for giving examination.

4. The matter was taken up under section 59 of the Act with the respondent No.2, namely, Secretary, Ministry of Defence, New Delhi vide letter dated 11.12.2013 .

5. The General Manager, Ordnance Factory, Medak vide letter dated 07.01.2014 submitted that Shri Manjit Ramachandra Kank attended at the examination centre on 14.07.2013 and was allowed to write the examination but the scribe who came along with him was not allowed in the centre as there was no intimation about him with regard to his name, qualifications and other details etc. However,

the examiner provided an helper/scribe from the department to which he refused and written the examination on his own. At the time of applying for the said exam, Shri Manjit did not submit letter of permission issued him by an institution/Medical Board granting him assistance for appearing or writing the examination. There were also no presentations/requests form him for taking the assistance of scribe/helper till the date of examination. Shri Manjit is also not qualified for the post of Store Keeper as he did not possess the Intermediate/+2 qualification which is required for the said post. The OM No.16-110/2003-DD.III dated 26.02.2013 issued by Ministry of Social Justice & Empowerment, Department of Disability Affairs are strictly adhered to the laid down principles.

6. A copy of the reply received from the respondent was forwarded to the complainant vide this Court's letter dated 10.01.2014 for his comments/rejoinder.

7. The complainant vide his letter dated 07.01.2014 submitted his rejoinder to the reply submitted by the respondent. He submitted that the Board of Examination did not provide scribe to read the question paper even after repeated requests of his son nor did they allow his own scribe who was 10th appearing student. No extra time was provided. As complete application was forwarded in April, 2012 alongwith photo copy of documents in proof of 10+2 educational qualification i.e. 3 years Polytechnic Diploma along with Disability Certificate. Shri Manjit is qualified as he has completed 3 years Polytechnic Diploma which is equivalent of 10+2 and it was not separately mentioned in application or in the advertisement that a separate application/request is required for providing scribe.

8. Upon considering the replies dated 31.12.2013 and 07.01.2014 of the respondent No.1 and the rejoinders/comments dated 17.01.2014 and 27.01.2014 of the complainant, a hearing was scheduled on 22.04.2014.

9. During the hearing on 22.04.2014, reiterating his written submissions, the complainant asserted that his son Shri Manjit R. Kank who happens to be a person with 40% visual disability was neither allowed the facility of scribe/amanuensis vide the guidelines issued by the Ministry fo Social Justice & Empowerment, Department of Disability Affairs, Government of India dated 26.02.2013 nor he was given the extra time admissible to persons with disabilities under the said guidelines. Therefore, he contended that injustice was meted out to his son who could not do as well in the exam as the said facility to which he is entitled, were not extended to him. On the strength of this plea, the complainant prayed that his son be appointed as Store Keeper. He also refuted the respondent's argument that his son did not possess the requisite qualifications as according to him he has completed the three years Diploma Course from JSS Polytechnic, Mysore, Karnataka in commercial Practices after completing his High School.

10. The complainant further added that as no amanuensis was made available to his son, he (his son) had to write the answers on his own in whatever way he could, which is why he could not do his well in exam. The complainant admitted that he did not give in advance the intimation to the respondent regarding the need for a scribe/amanuensis for his son but stated that since the fact of his visual impairment was mentioned in the application, it was implicit that his son would require one.

11. In the course of his deposition, the representative of the respondent No.1 stated that the complainant neither gave any advance information about the need of a scribe/amanuensis for his son nor his son actually fulfilled the eligibility criteria as he does not possess 10+2 qualification. When asked as to why his son at all called for written test if he did not possess the requisite qualifications, the representative of the respondent no.1 clarified that the Screening Committee cleared the application to enable him to take the written test subject to internal verification in the Department regarding fulfillment the eligibility criteria by him. Elaborating this argument, the representative of respondent No.1 submitted that the complainant's son was initially given the benefit of doubt and so was allowed to take the written examination following which it was verified that he did not possess the requisite qualifications which was duly communicated to the complainant. Reiterating the written submissions, the representative of the respondent No.1 also stated that the written examination was held on the 14th July, 2013 and results of the recruitment process were finalized on 21st July, 2013. He informed this Court that a person with 55% visual impairment has already joined on 11.11.2013, the instant complaint is dated 06.08.2013. The representative of the respondent no.1 admitted their lapse in not allowing the facility of extra time to candidates with disabilities, much less allowing the kind of compensatory time mentioned in the 26th February, 2013 guidelines.

12. In the above view of the matter, it would be in the fitness of things by this Court to observe that the matter to which the complaint relates is already fait accompli as the recruitment process is already over and a person with disability (55% visual disability) has already joined as stated above.

13. The guidelines dated 26.02.2013 issued by the Ministry of Social Justice & Empowerment, Department of Disability Affairs, Government of India inter-alia state as under:-

- (iv) The candidate should have the discretion of option for his own scribe/reader/lab assistant or request the Examination Body for the same. The examining body may also identify the scribe/reader/lab assistant to make panels at the District/Division /State level as per the requirements of the examination. In such instances the candidates should be allowed to meet the scribe a day before the examination so that the candidates get a chance to check and verify whether the scribe is suitable or not.
- (v) Criteria like educational qualification marks scored, age or other such restrictions for the scribe/reader/lab assistant should not be fixed. Instead, the invigilation system should be strengthened, so that the candidates using scribe/reader/lab assistant do not indulge in malpractices like copying and cheating during the examination.

14. It is abundantly clear from the above that there has been a distinct violation of the guidelines dated 26.02.2013 issued by the Ministry of Social Justice & Empowerment, Government of India although albeit it would certainly be better, if the complainant, to be on the safer side had given an advance intimation to the respondent regarding the need for amanuensis and extra time for his son, but regardless of this fact, it is imperative that the respondent sensitizes its entire staff and orients them to the rights and entitlements of candidates/persons with disabilities.

15. Therefore, being aware of its jurisdictional limitation, the only choice this Court is left with in respect of the instant case is to direct all the respondents to ensure that henceforth the guidelines dated 26.02.2013 issued by the Ministry of Social Justice & Empowerment, Government of India relating to conduct of written examination for persons with disabilities are strictly adhered to since by implication these guidelines supersede all other previous guidelines unless they are more advantageous to persons with disabilities, reference to guidelines of the State of Maharashtra or any such other guideline is redundant. The respondents may also like to examine the possibility of giving appropriate opportunity to the complainant's son against backlog of vacancies, if any.

16. The matter stands disposed of with the above directions.

Sd/-

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