



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.316/1022/12-13

Dated:-02.05.2014

In the matter of:

Shri Samrendra Kumar Singh,
H/O – Pascal Aind,
H. No. F/1757, Ashok Puram,
Opp. Ashok Nagar Road No. 4,
Ranchi – 834 002.

..... Complainant

Versus

State Bank of India,
(Thru the General Manager),
Network – 2,
Local Head Office,
West Gandhi Maidan,
Patna – 800 001.

.... Respondent

Date of hearing : 25.03.2014

Present :

1. S/Shri Sridhar Samanta, Chief Manager (HR) and P. Harish Kumar, Manager (Law) on behalf of Respondent.
2. None on behalf of the Complainant.

O R D E R

The above named complainant, a person with 63% locomotor disability filed a complaint dated 21.02.2013 under the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, hereinafter referred to as the Act regarding his transfer.

2. He submitted that he joined as Probationary Officer in the Bank on 18.07.2007. He was posted at Ashok Nagar branch, Ranchi on 09.11.2009 as Relationship Manager – Personal Banking (RM – PB). On 30.04.2012 he was transferred to SME – RIE Kokar Branch, Ranchi as a Relationship Manager – Small Enterprises. The said branch is located upstairs and it is difficult for him to climb up. He made a written request on 18.07.2012 to his Regional Manager, RBO-I, Ranchi for reconsideration and change of his assignment but the said request was un-replied till date. During this he met with an accident and he had to undergo for bed rest for one week in July, 2012 and for one and a half month in September, 2012 and he is still under periodic treatment. His present assignments/posting needs a lot of movement and exertion.

.....2/-

3. As per Ministry of Finance, Department of Economic Affairs (Banking Division) letter No.302/33/2/07-SCT (II) dated 15.02.1988, subject to the administrative exigencies, the physically handicapped persons employed in public sector banks in all cadres should normally be exempted from the routine periodic transfers. Such persons should not normally be transferred even on promotion if a vacancy exists in the same branch/office/town/city. If the transfer of a physically handicapped employee becomes inevitable on promotion to a place other than his original place of appointment due to non-availability of vacancy, it should be ensured that such employees are kept nearest to their regional place of posting and in any case are not transferred to far off/remote places.

4. The matter was taken up with the respondent vide this Court's letter dated 12.03.2013.

5. The respondent vide his letter No. HR/IR/PK/948 dated 08.05.2013 submitted that the complainant was transferred to Regional Business Office, Daltonganj for eventual posting on 26.02.2013 after promotion to MMGS-II. He was posted at Ranchi Centre since 09.11.2009. Since, it is mandatory for him to undergo Rural/Semi urban assignment for 2 years for his next promotion and there was no branch available near the vicinity of Ranchi for Shri Singh to commute conveniently, he was posted at a place without much inconvenience to him. He further submitted that against the transfer order to RBO, Daltonganj, the official made a representation to cancel his transfer to RBO, Daltonganj on medical ground. However, Bank's Medical Officer observed in his report that the complainant is fit to work in the bank but will have to avoid hilly and uneven terrains to work effectively. After being relieved from RZE, Kokar branch on 26.02.2013, he proceeded on leave.

6. A copy of reply dated 08.05.2013 of the respondent was forwarded to the complainant vide this Court's letter dated 07.06.2013 for his comments.

7. The complainant in his rejoinder dated 24.06.2013 submitted that he was transferred after his promotion to MMGS-II and was posted at Ranchi Centre since 09.11.2009. Five other officers who joined the Bank at the same time, were posted at Ranchi centre since November, 2009 and were promoted to MMGS-II but were retained at Ranchi without being sent for such mandatory rural/semi-urban assignments. Besides, many other officers who were also promoted to MMGS-II have been accommodated at Ranchi and its vicinity which clearly shows that there were vacant posts available in Ranchi and its vicinity. Most of the branches falling under the control of the rural Administrative Office comprise of rural and semi-urban branches. The complainant further submitted that when suitable branches were available for completion of mandatory rural/semi-urban assignments in the vicinity of Ranchi, he should not have been posted to a far and remote place which is 200 kms away from Ranchi.

8. He made a representation to reconsider/cancel the same on his physical disability ground. But without giving any consideration to it, his request was outrightly rejected by the DGM, B&O, Ranchi. He had no other option than to make a complain to this court. Despite this court's advice vide letter dated 12.03.2013 to consider his representation, no action was taken by the competent authorities. Usually, opinion of the Bank's Medical Officer in transfer-posting related matters is taken in cases, where decisions have to be made on the representations received from employees for

consideration of their transfer order on the ground of their suffering from some serious diseases which necessitate them to stay at a particular place where adequate medical facilities are available. The bank authorities without passing any order with respect to the leave applications submitted by him declared the period from 01.04.2013 to 25.12.2015 as unauthorized absence (a future date in application) and have also not credited the leave available during the last financial year to his leave balance account (There appears to be an error in mentioning the year 2015). His salary, house rent and other allowances had also been stopped from the month of April, 2013 without giving him any notice/information. Even his Annual Self Appraisal link in his HRMS Portal was blocked/deactivated through which an employee submits his Annual Self Appraisal data online for review and confirmation by the controller on which the future promotions of an employee depends thus debarring him from future promotions.

9. The complainant, therefore, prayed that (i) his posting should be done in light of the guidelines issued by the Govt. of India, Ministry of Finance to a post/assignment that has been identified suitable for him in accordance to his physical disability as per Section 32 of the PwD Act and (ii) His salary and other allowances should be released, his leave status should be rectified and his earned leave for the last financial year should be credited to his leave account. The link of Annual Self Appraisal HRMS portal should be activated for online submission of his Self Appraisal report well in time and to do justice to him as per law.

10. Upon considering the chain of letters of respondent and complainant, the case was scheduled for hearing on 25.03.2014.

11. During the hearing, the representative of the respondent, who are posted at Administrative Office, Ranchi, submitted a written submission dated 19.03.2014, which is reproduced as under:-

“(a) Issue relating to leave and release of salary and allowance for the period treated on leave:-

Shri Samrendra Kumar Singh is on unauthorized absence from duty w.e.f. 22.08.2013. The chart showing leave position as on date, of Shri Samrendra Kumar Singh is enclosed hereto. As per chart, Shri Singh's leave after taking into account eligible leaves has exhausted on 21.08.2013. As per State Bank of India Officer's Service Rules 40(2) and 40(3), an officer is not entitled to any salary and allowance for the period of his absence without leave. Salary and admissible allowance for the period treated as on authorized leave i.e. 26.02.2013 to 21.08.2013 is in the process of being released. However, it is clarified that Shri Singh having exhausted leave is on unauthorized absence since 22.08.2013 and no salary and allowance thereafter shall be payable to him in terms of State Bank of India Officer's Service Rule 40(2) and 40(3).

(b) Issue relating to post facto permission for treatment at CMC, Vellore:

Shri Samrendra Kumar Singh's application in the captioned subject matter was not considered by Bank's Medical Officer and was not recommended at his end. Medical treatment at outside centre requires recommendation from Bank's Medical Officer, who after

diagnosis may advise/refer to treatment at outside centre. In this case, Shri Singh has not consulted Bank's Medical Officer for diagnosis. Accordingly, permission was not accorded to Shri Singh for proceeding with treatment at CMC, Vellore. As Shri Singh is on unauthorized absence, post facto permission cannot be accorded for treatment at CMC, Vellore. In case Shri Singh resumes duty, and requests for the same, his request shall be considered by the Bank as per Bank's extant guidelines in the matter.

2. *In view of the foregoing, it is submitted that in the instant case there has been no deprivation of any right of Shri Singh nor in Mr. Singh's case there are any issues regarding, non-implementation of laws, rules, bye-laws, regulations, executive orders, guidelines or instructions made or issued by the appropriate governments and the local authorities for the welfare and protection of rights of persons with disabilities. It is also pertinent to mention that the issues raised herein before the Ld. Court is subject matter pending adjudication before Hon'ble Jharkhand High Court in LPA No.76/2014.*

3. *It is hence, prayed that the proceedings may be dropped against the Bank as there has been no infringement of the rights and facilities made available to persons with disabilities."*

12. The representative of the respondent further added that the complainant had filed two Writ Petitions in the Hon'ble High Court of Jharkhand raising all the issues that have been agitated before this Court. Both the Writ Petitions were disposed off by the Hon'ble Jharkhand High Court with certain direction to the respondent bank. The respondent bank has filed a LPA No.762014, which is pending before the Hon'ble Jharkhand High Court. They also added that the earlier reply which did not mention about the fact that the complainant had filed the Writ Petitions in the Hon'ble Jharkhand High Court, as stated above, were filed by local Head Office, Patna. They also clarified that the salary for the eligible period has been credited into his salary account.

13. It is observed that despite the fact that the similar issues were agitated before the Hon'ble High Court of Jharkhand, the parties did not bring this important matter to the notice of this Court. Had either party done so, the matter could have been closed in this Court much earlier.

14. In the light of the foregoing, the complaint is closed without any direction.

Sd/-

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