



सत्यमेव जयते

न्यायालय मुख्य आयुक्त दिव्यांगजन

COURT OF CHIEF COMMISSIONER FOR PERSONS WITH DISABILITIES (DIVYANGJAN)
दिव्यांगजन सशक्तिकरण विभाग/Department of Empowerment of Persons with Disabilities (Divyangjan)
सामाजिक न्याय और अधिकारिता मंत्रालय/Ministry of Social Justice & Empowerment
भारत सरकार/Government of India

5वाँ तल, एन.आई.एस.डी. भवन, जी-2, सेक्टर-10, द्वारका, नई दिल्ली-110075; दूरभाष : (011) 20892364
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Case No.13804/1024/2023/184731

Complainant:

Shri Ketan Chauhan,
BSNL, Rajkot, Gujarat
Email: ketanchauhan@gmail.com

Respondent:

The Chairman & Managing Director
Bharat Sanchar Nigam Limited
F29P+3W4, Delhi Rd, Anamika Enclave,
Sector 14, Gurugram, Haryana 122001
Email: cmdbsnl@bsnl.co.in

1. Gist of the Complaint:

- 1.1 Shri Ketan Chauhan, a person with 45% Locomotor Disability filed a complaint dated 07.01.2023 regarding grant of Special Casual Leave.
- 1.2 He submitted that he is working as Junior Engineer in BSNL Rajkot (Gujarat Circle) had requested for a clarification regarding the necessity of a medical certificate for grant of 4 special casual leave in a calendar year to him.

2. Submissions made by the Respondent:

2.1 Assistant General Manager (Estt-III), Bharat Sanchar Nigam Limited, filed their reply dated 07.01.2023 submitted that as per Govt. guidelines, in Central Government Service, a total of 8 Casual Leaves per year are allowed. In BSNL, the employees are allowed 12 Casual Leaves per year.

2.2 Since BSNL is already granting a total of 12 Casual Leaves per year to its employees, the specific benefit of DOP&T OM dated 31.03.2014 has not been extended in BSNL.

3. Submissions made in Rejoinder:

3.1 No rejoinder has been received from the complainant.

4. **Hearing:** The case was heard via Video Conferencing by Chief Commissioner for Persons with Disabilities on 22.09.2023. The following were present in the hearing:

- Shri Ketan Chauhan - **Complainant**
- Shri Keshav Kumar - **Respondent**
- Shri Yogesh Kumar, General Manager- **Respondent**
- Shri Manoj Kumar, GM, Admn. BSNL - **Respondent**

5. Observation & Recommendation:

5.1 The Complainant sought clarification from the Court whether a Medical Certificate is required for grant of Special Casual Leave to a person with disabilities. The Respondent Shri Keshav Kumar submitted that the 4 days' Special Casual Leave allowed by DoPT to employees with disabilities over and above the 8 days' Casual Leave allowed to non-disabled employees of the Central Government has not been extended in the BSNL as 12 days' Casual Leaves are already allowed to all employees of the company. Thus, a question of grant to additional 4 days of Special Casual Leave does not arise in their establishment.

5.2 This Court is not inclined to agree with the contention of the Respondent. Section 3 and 20 of the Act obligate the government establishments to allow reasonable accommodation to persons with disabilities. Equal treatment of employees with disabilities with their non-disabled counterparts in the establishment reeks of discrimination and is apparently unjust.

5.3 The Respondent has relied upon the DoPT OM No. 25011/1/2008/Estt. (A) dated 19.11.2008, where 4 days' SCL was allowed over and above the 8 days of CL in a calendar year was allowed for non-disabled employees. In the said OM also, the ground for grant of these 04 SCLs was mentioned as "for specific requirements relating to the disability of the official". The DoPT vide their OM No. 36035/3/2013/Estt. (Res) dated 31.03.2014 has reiterated the aforesaid provision without linking the same with the number of Casual Leave allowed to non-disabled employees of central government. The aforementioned SCLs are in addition to the 10 days of SCL per year permissible to an employee with disability for taking part in recognised training programme/seminar/workshop, etc.

5.4 The contention of the Respondent that the instruction dated 31.03.2014 has not been extended to the BSNL is factually incorrect as the The Department of Public Enterprises have already circulated these instructions vide their circular no. 6(09)/2006-

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DPE (SC/ST Cell) dated 07.04.2014 and again very recently vide their OM No. DSPE-GM-0043/2014-GM (FTS-1899) dated 05.04.2023.

5.4 Moreover, sections 3 and 20 of the RPwD Act provide for reasonable accommodation to person with disabilities. Section 21 of the Act read with Rule 8 of the RPwD Rules provides the manner of publication and registration of Equal Opportunity Policy (EOP) by government as well as private establishments. Rule 8, sub-rule (3) (c) of the RPwD Rules, 2017 mandates every establishment to incorporate inter alia provisions related to Special Leave for persons with disabilities in their EOP. It is clearly not the case of the Respondent to say that in their establishment, the no. of Special Leave is zero.

5.5 In so far as the request of the complainant for clarification whether medical certificate is required for grant of Special Casual Leave or not, this Court is not inclined to pass direction before the cause of action has arisen. If any such request has been rejected, the complainant is free to file his complaint separately which will be looked into as per the rules and the facts of the case.

5.6 Finally, the Respondent is directed to de-link Special Casual Leave with the Casual Leave allowed to non-disabled employees and follow the statutory provisions and executive instructions as mentioned above in letter and spirit. The Respondent is also advised to prepare, publish and get registered its Equal Opportunity Policy in conformity with section 21 of the Act read with rule 8 of the rules and forward its action taken report within 3 months of issue of this order.

5.7 This case is disposed of accordingly.

(Rajesh Aggarwal)
Chief Commissioner for
Persons with Disabilities