



2025:DHC:8293



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

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Decided on: 17.09.2025

+ W.P.(C) 8069/2022

RAJENDER PRASAD SHARMAPetitioner

Through: Mr. Karan Luthra, Mr. Rohan Dua,
Mr. Piyush T., Advocates.

versus

COURT OF CHIEF COMMISSIONER FOR PERSONS WITH
DISABILITIES (DIVYANGJAN) & ANR.RespondentsThrough: Mr. Naginder Benipal, SPC with
Mr. Ankit Siwach, Mr. J. Singh,
Mr. Arjun Baliyan, Advocates for
R-1.
Mr. Dhairya Gupta, Advocate for
R-2.**CORAM:****HON'BLE MR. JUSTICE PRATEEK JALAN****PRATEEK JALAN, J. (ORAL)**

1. By way of this writ petition, under Article 226 of the Constitution, the petitioner assails an order of the Court of Chief Commissioner for Persons with Disabilities (Divyangjan) dated 23.10.2020, by which the Commissioner has rejected a complaint filed by the petitioner against his employer, respondent No.2 herein – Jones Lang LaSalle Building Operations Pvt. Ltd [“Company”].

2. I have heard Mr. Karan Luthra, learned counsel for the petitioner, and Mr. Dhairya Gupta, learned counsel for respondent No. 2 – Company.

3. The petitioner joined the services of respondent No. 2 – Company as an Electrical Engineer on 01.06.2014. In terms of the appointment letter, he was deployed to a site in Noida, Uttar Pradesh, where the



Company was providing facilities management services. The appointment letter specified that his place of work may be changed from time to time. It also contained a clause permitting termination by either party on one month's written notice, subject to certain further conditions.

4. On 04.08.2017, the Company issued a warning letter to the petitioner, alleging negligence of duties at the site. The petitioner's response dated 16.08.2017 reflects that after issuance of the warning letter, he was not permitted to join duty, and that disciplinary action was being contemplated against him. The Company, by communication dated 17.08.2017, referred to a meeting wherein it was conveyed to the petitioner that such lapses were not acceptable. It was also stated that while the Company had an opening in Gurgaon, the petitioner was interested only in opportunities in Noida and Ghaziabad, for which a suitable opportunity was being identified by the Company.

5. There was further correspondence between the parties on 17.08.2017 and 19.08.2017, in which the Company reiterated that it had an opening in Gurgaon where the petitioner could be deployed. However, the petitioner had expressed constraints regarding the location. It was, therefore, stated that he would be deployed once a suitable opportunity became available in Noida or Ghaziabad, as per his request. It was further stated that the petitioner would not be paid until he was deployed at a new site. The petitioner protested against this arrangement. However, no legal action was taken at that stage.

6. Unfortunately, the petitioner suffered a stroke in January 2018. By April 2018, his vision also began to deteriorate. On 19.06.2019, the All India Institute of Medical Sciences ["AIIMS"] issued a disability



certificate, certifying that the petitioner was visually impaired to the extent of 90%. This certificate was forwarded to the Company on 24.06.2019.

7. In the interregnum, the record reveals communications dated 18.03.2019 and 15.04.2019 from the Company to the petitioner, requesting him to apprise the Company of his medical condition with supporting documents. The only response to this was the aforesaid e-mail dated 24.06.2019, forwarding the disability certificate to the Company.

8. It is contended that the petitioner thereafter followed up orally with the Company on several occasions, but did not receive any resolution of his grievances.

9. In these circumstances, the petitioner filed a complaint dated 24.02.2020 before the Chief Commissioner for Persons with Disabilities under Section 74 of the Rights of Persons with Disabilities Act, 2016 [“RPwD Act”]. In the complaint, he referred to the warning letter dated 04.08.2017, and asserted that the Company had not permitted him to enter the office since 31.07.2017. He also complained of non-payment of salary from August 2017 onwards, pursuant to the said warning letter. It was further stated that the petitioner came to know of his visual disability only on 19.06.2019, and informed the Company of his medical condition in the last week of June 2019.

10. Pursuant to notice issued by the Commissioner, the Company filed its reply in July 2020. It reiterated that the petitioner’s services were found deficient, leading to issuance of the warning letter dated 04.08.2017. The Company specifically pleaded that it became aware of the petitioner’s visual impairment only in the last week of June



2019, and that it was not liable to pay him salary for the period from 01.08.2017 until 24.02.2020.

11. The Commissioner, by order dated 23.10.2020, disposed of the petitioner's complaint with the following observations:

“6. It is observed that assessment of disability of the complainant was done in 2019 and a certificate of disability was issued on 19.06.2019 and the grievance of not allowing him to work is related to the year 2017. Therefore, this Court does not find any merit in the case on the ground of disability. However, since the complainant became person with disability and obtained certificate in 2019, therefore, respondent may consider giving possible help to the complainant on humanitarian ground.”

12. Notice was issued in the present writ petition on 23.05.2022. Although the Company has filed a counter affidavit, which is not on record, a copy has been handed over in Court and is taken on record.

13. Mr. Luthra's principal submission is that the Commissioner's decision does not deal with the actions of the Company after June 2019, when the petitioner's disability was brought to the Company's notice.

14. Mr. Luthra also relies on certain subsequent events, based upon certain additional documents placed on record with the Court's permission, by order dated 23.05.2022. According to the petitioner, following the Commissioner's order dated 23.10.2020, he was called for a meeting on 24.02.2021. The petitioner, however, did not attend that meeting, following which another meeting was scheduled for 25.02.2021, with representatives of the Company. The meeting was held, but the matter was not resolved. Instead, a show cause notice dated 08.03.2021 was issued to the petitioner by the Company, alleging unauthorised absence since 05.08.2017, and contemplating termination of employment. The petitioner did not reply to the show cause notice, and



his services were subsequently terminated by letter dated 26.03.2021. Although the termination letter refers to the petitioner's final settlement, I am informed that no such settlement has been effected.

15. Mr. Gupta disputes the above submissions, and contends that the actions taken by the Company concerning, *inter alia*, termination of the petitioner's employment, were not on account of his status as a Person with Disability ["PwD"], but stemmed from events that occurred well before the petitioner acquired his disability. With respect to the period after submission of the disability certificate dated 19.06.2019 by the petitioner to the Company, Mr. Gupta contends that the Commissioner, in its order dated 23.10.2020, recommended the Company's assistance on humanitarian grounds, which the Company endeavoured to provide, though without subsequent mutual resolution.

16. During the pendency of the writ petition, the Court has also made efforts towards settlement, as reflected *inter alia* in an order dated 12.05.2023, but no mutually acceptable resolution has materialised. Even in today's hearing, counsel for the parties were directed to take instructions regarding the possibility of a monetary settlement. Mr. Luthra, however, states that the petitioner, who is present in person, has instructed him to press the present writ petition.

17. Sections 75 and 76 of the RPwD Act deal with the functions and the consequences of recommendations made by the Chief Commissioner. They read as follows:

"75. Functions of Chief Commissioner.—(1) The Chief Commissioner shall—

(a) identify, suo motu or otherwise, the provisions of any law or policy, programme and procedures, which are inconsistent with this Act and



recommend necessary corrective steps;

(b) inquire, suo motu or otherwise, deprivation of rights of persons with disabilities and safeguards available to them in respect of matters for which the Central Government is the appropriate Government and take up the matter with appropriate authorities for corrective action;

(c) review the safeguards provided by or under this Act or any other law for the time being in force for the protection of rights of persons with disabilities and recommend measures for their effective implementation;

(d) review the factors that inhibit the enjoyment of rights of persons with disabilities and recommend appropriate remedial measures;

(e) study treaties and other international instruments on the rights of persons with disabilities and make recommendations for their effective implementation;

(f) undertake and promote research in the field of the rights of persons with disabilities;

(g) promote awareness of the rights of persons with disabilities and the safeguards available for their protection;

(h) monitor implementation of the provisions of this Act and schemes, programmes meant for persons with disabilities;

(i) monitor utilisation of funds disbursed by the Central Government for the benefit of persons with disabilities; and

(j) perform such other functions as the Central Government may assign.

(2) The Chief Commissioner shall consult the Commissioners on any matter while discharging its functions under this Act.

76. Action of appropriate authorities on recommendation of Chief Commissioner.—Whenever the Chief Commissioner makes a recommendation to an authority in pursuance of clause (b) [of subsection (1)] of section 75, that authority shall take necessary action on it, and inform the Chief Commissioner of the action taken within three months from the date of receipt of the recommendation:

Provided that where an authority does not accept a recommendation, it shall convey reasons for non-acceptance to the Chief Commissioner within a period of three months, and shall also inform the aggrieved person.¹

¹ Emphasis supplied.



18. It is evident from the above that, although the powers of the Commissioner are recommendatory in nature, however, the authority concerned is obliged normally to act upon such recommendations. In the event the recommendation is not accepted, the authority must state the reasons for such non-acceptance and communicate them, both to the Commissioner and to the affected person.

19. In the present case, it is undisputed that the petitioner acquired the disability within the meaning of the RPwD Act well after his employment with the Company began, and indeed well after the genesis of his grievances, in August 2017. Indeed, his own case before the Commissioner was that he became aware of the disability only on 19.06.2019, i.e. when the disability certificate was issued, and that he informed the Company of the same only in the last week of June 2019.

20. It may be noted that the petitioner, in the present writ petition, in addition to seeking setting aside of the Commissioner's order, has sought reinstatement in service, payment of arrears of salary, and other consequential benefits. However, respondent No. 2 – Company is a private entity, not ordinarily amenable to the writ jurisdiction of this Court. The matter must, therefore, be examined in light of the statutory framework of the RPwD Act and the powers conferred thereunder, together with the consequences thereof. Those powers are recommendatory in nature, with Section 76 of the RPwD Act only requiring consideration and reporting on such recommendations. In exercise of jurisdiction under Article 226, the Court must consider whether that power has been properly exercised by the statutory authority.



21. In fact, the relief of reinstatement can not, in any event, be granted in these proceedings as termination of petitioner's employment was not the subject matter of the complaint before the Commissioner. The termination occurred nearly five months after the Commissioner's order. If the petitioner contends that the termination was on account of his disability, that would constitute a fresh cause of action, which he could have pursued before the Commissioner.

22. There is force, however, in Mr. Luthra's submission that the Commissioner's consideration of the petitioner's rights after 19.06.2019 was somewhat perfunctory. The only analysis on this aspect is reflected in paragraph 6 of the impugned order, reproduced above.² The Commissioner correctly observed that the petitioner's complaint primarily related to events that occurred in 2017. However, the Commissioner did not express any view on the petitioner's rights for the period following 19.06.2019, when the disability certificate was issued. At least for this period, the Commissioner ought to have examined the petitioner's rights under the RPwD Act, including the entitlement to reasonable accommodation in employment. No view has been expressed in this regard, one way or other, in the impugned order.

23. I am, therefore, unable to accept Mr. Gupta's submission that the Commissioner's direction to the Company to provide assistance to the petitioner on humanitarian grounds adequately discharges this responsibility. That direction was given notwithstanding the categorical finding that the petitioner's claim on the ground of disability was unmerited, and it does not substitute for a proper examination of the



petitioner's rights under the RPwD Act for the period after 19.06.2019.

24. In view of the foregoing facts and circumstances, and particularly considering that the Commissioner's decision has been overtaken by the significant subsequent event of the petitioner's termination of service, I am of the view that the appropriate course is to ask the Commissioner to reconsider this matter.

25. It is, therefore, directed that the petitioner may make a fresh and comprehensive representation to the Commissioner within four weeks from today. The representation may include any grievances arising from his disability, and to the extent the Commissioner finds such grievances to fall within the purview of the RPwD Act, the Commissioner may consider them, notwithstanding the findings in the impugned order.

26. It is made clear that this Court has made no comments on the merits of the petitioner's allegations, which are matters for the Commissioner to consider in accordance with law.

27. Having regard to the limited nature of the Commissioner's jurisdiction, it is also made clear that if the petitioner chooses to pursue alternative employment-related remedies against the Company, he is free to do so, without prejudice to any defences that the Company may raise.

28. The writ petition is disposed of with these observations.

PRATEEK JALAN, J

SEPTEMBER 17, 2025/'Bhupi/sd'/

² Paragraph 11.