



मन्त्रमेव 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 and Empowerment

भारत सरकार / Government of India

**Case No: 13348/1021/2022**

Complainant: Shri Subhash Chandra Vashishth  
Advocate  
E-mail: <subhashcvashishth@gmail.com>

Respondent: 1. The Chairman  
State Bank of India, State Bank Bhawan  
Madam Cama Road, Nariman Point, Mumbai – 400021  
E-mail: <dmd.cdo@sbi.co.in>

2. DMD CDO  
State Bank of India  
E-mail: <dmd.cdo@sbi.co.in>

3. DGM Industrial Relations  
State Bank of India  
E-mail: <dgm.ir@sbi.co.in>

### GIST of the Complaint:

The complainant Shri Subhash Chandra Vashishth, Advocate filed a complaint dated 03.07.2022 on behalf of Visually Impaired Bank Employees Welfare Association (VIBEWA) challenging the impugned promotion policy issued by State Bank of India on 21.01.2022 to the grades of SMGS-IV and SMGs V (2022-23) being discriminatory to persons with visual impairment.

2. He has submitted that VIBEWA is an association of visually impaired people working in the banking, insurance and other financial sectors in India and it is the first association in the country formed exclusively for the empowerment and welfare of visually impaired employees in the banking and other financial sectors. It is represented by Mr. Himanshu Sahu, General Secretary, who has been duly authorized to represent the organization in the present matter through advocate/legal counsel.

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3. He further submitted that the VIBEWA challenges the impugned Promotion Policy issued by the State Bank of India on 21/01/2022 to the grades of SMGS IV and SMGS V 2022-23 bringing in marks for branch experience, mandatory branch manager assignment, credit assignments etc. for persons with vision disabilities thereby discriminating against visually impaired officials on the basis of their disability.

4. He has requested to pass recommendations to the following effects:

- a) Exempting visually impaired officials from the marks assigned to branch experience in promotions to SMGS IV and SMGS V in arriving at final merit list, as a reasonable accommodation.
- b) Exempting visually impaired officials from mandatory assignments in arriving at final merit list for all promotions, similar to exemption from RUSU assignment, as a reasonable accommodation.
- c) To identify roles/ jobs that are performed by visually impaired officials and count the jobs/ work experience of visually impaired officers relating to marketing, recoveries, digital promotions, HR, training, research, monitoring and follow up etc. as equivalent to the current mandatory assignment introduced by the impugned policy with respect to vision impaired employees, as a reasonable accommodation.
- d) In respect of any visually impaired official who is eligible for promotion to SMGS IV and SMGS V in the promotion year 2022- 23, the respondent needs to exclude the mandatory branch manager/credit assignment and reconsider the candidature of such officials for the purpose of arriving at the final merit list. The final merit of such an official be arrived at excluding the marks for branch experience by normalizing their score to 100 by the marks they have scored out of 95.

5. The matter was taken up with the Respondent vide letter dated **13.07.2022** under Section 75 of the RPwD Act, 2016

6. Respondent vide letter dated **02.08.2022** has inter-alia submitted that the Bank is not only sensitive and committed to the cause of empowering the persons with disabilities but is



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fully cognizant of its responsibility towards persons with disabilities and thus framed an Equal Opportunity Policy for persons with disabilities (2021 – 2024). Respondent further submitted that the promotion policy of the Bank dated 21.01.2022 to the grades of SMGS IV and SMGS V for 2022 – 23 is in line with Rights of Persons with Disabilities Act, 2016. Respondent further submitted that Bank's Promotion Policy and the conditions thereat do not violate any provisions of the Rights of Persons with Disabilities Act, 2016 as alleged in the complaint and the Policy does not discriminate against any person with disability on the ground of their disability and rather treats them on equal footing with other employees. The Bank's Policy does not deprive any person with disability of their personal liberty on ground of their disability and that the Policy does not discriminate against any person with disability in any matter of employment or deny promotion to any person with disability on the ground of the disability. The allegation made in the complaint is not correct and therefore, the relief prayed therein are unreasonable and unjustified.

7. After considering the respondent's reply dated **02.08.2022** and the complainant's rejoinder dated 23.09.2022, it was decided to hold a personal hearing in the matter and therefore, the case was listed for personal hearing on **27.10.2022** but due to administrative exigency, hearing re-scheduled on **01.11.2022**.

Hearing: The case was heard via Video Conferencing by Chief Commissioner for Persons with Disabilities on **01.11.2022**. The following were present in the hearing:

- Shri Himanshu Sahu, Shri Rajesh Asudani, Shri Krishnamurthy alongwith Shri Subhash Chandra Vashishth, Advocate – complainant
- Advocate Abhijeet Joshi and Shri Shailesh, AGM on behalf of respondent

**Observation/Recommendations:**

8. Complainant has challenged the promotion policy of the respondent establishment. Complainant submits that the respondent establishment has framed new promotion policy and notified it on 21.01.2022. The policy relates to the promotion to the grades of SMGS-IV and SMGS-V. Complainant alleges that this promotion policy is discriminatory with Divyangjan with Visual Impairment. Complainant submits that as per promotion policy marks for 'branch experience', 'mandatory branch manager assignment' and 'credit assignment'



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will be taken into account while considering the promotion. As per the complainant this is discrimination with Divyangjan with Visual Impairment because in order to perform these mandatory assignments functionality of vision is essential and it is technically impossible for a Divyangjan with 100% Visual Impairment to perform such assignments. This will result into a situation where divyang employees with Visual Impairment will be automatically excluded from the promotion posts.

9. Further, the complainant submits that the impugned promotion policy provides for 5% weightage in the form of marks with respect to work experience in branches. This is also discrimination with Divyangjan with Visual Impairment because majority of such Divyangjan are posted in establishment offices such as Regional Offices, Zonal Office, credit processing cells etc. Such situation will also result in discrimination with Visual Impairment divyangjan because such employees will automatically loose 5 marks at the very beginning itself.

10. Respondent refuted the claim that the promotion policy is discriminatory with divyangjan with Visual Impairment and provided justification behind the promotion policy. Respondent submitted that the provisions of mandatory assignments were introduced because such assignments provide the officers adequate operational and managerial exposure in order to enable them perform higher responsibilities in higher scales. Similarly, on the issue of awarding 5 marks, the respondent submits that it is to encourage the employees to take up work in branch so that they can equip themselves with wide experience. Respondent further, submits that the bank also provides employees with various assistive devices to enable them to discharge other duties effectively.

11. During online hearing this court enquired from the complainant as to why visual impaired divyang employees cannot perform branch assignment, performance of which are mandatory in order to be considered for promotion. Complainant informed this court that functions related to branch manager are such that they cannot be performed by Divyangjan with visual impairment without assistance of any other employee. For instance transaction of big amount has to be approved by branch manager. This function is such that it cannot be completed without assistance of other employee. Unavoidable intervention of other employee in completion of task automatically puts divyang employee in vulnerable situation in which high probability of commission of fraud exists.



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12. Further, this court enquired the procedure which existed before this impugned promotion policy came into effect. Respondent informed this court that prior to the impugned policy requirement of operational assignment was not there.

13. Rights of Persons with Disabilities Act, 2016 provides for equality in employment. It is certain that intention of the statute is that no policy can be framed which is discriminatory with divyang employees. As far as present promotion policy is concerned this court is inclined to conclude that the fact that marks for branch experience, mandatory branch manager assignment, credit assignment will be taken into account while considering the promotion will indeed exclude Divyangjan with Visual Impairment because these functions cannot be performed by such employees in independent capacity. These functions can only be performed with assistance of other employees. Such a policy will leave divyang employees with Visual Impairment in situation where they will either be dependent upon mercy of other employees of whom they are taking assistance of or else it will be impossible for them to perform such functions in individual capacity and hence they will never be considered to promotion to the posts of SMGS-IV and SMGS-V. The impugned promotion policy excludes divyang employees with Visual Impairment hence, such a policy must be done away with or reasonable accommodation for visually impaired should be provided for in the policy.

14. In order to remove this exclusion following points are recommended to the Respondent -:


- a) In case of divyangjan with Visual Impairment similar weightage in marks should be given to them for performing some other functions which they can be easily performed in individual capacity and without exposing themselves to unnecessary risk.
- b) Complainant in its rejoinder has given list of various posts. Functions associated with such posts can be performed by divyangjan with Visual Impairment in individual capacity. Hence, Respondent is recommended to consider performance of divyang employees with Visual Impairment holding such posts while evaluating them for promotion, instead of considering 'branch experience', 'mandatory branch manager assignment' and 'credit assignment'.
- c) Accordingly, the policy should be reviewed to prevent exclusion and provide reasonable accommodation for giving them equal opportunity in promotion.



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15. Respondent is directed to submit the Compliance Report of this Order within 3 months from the date of this Order. In case the Respondent fails to submit the Compliance Report within 3 months from the date of the Order, it shall be presumed that the Respondent has not complied with the Order and the issue will be reported to the Parliament in accordance with Section 78 of Rights of Persons with Disabilities Act, 2016.

16. The case is disposed off.



**(Upma Srivastava)**  
Chief Commissioner for  
Persons with Disabilities

Dated: 01.12.2022