

**Registered**

**Before the Court of Commissioner (Disability)-cum-Secretary (SJ&E) to the Government of H.P.**

**No. SJE-B-E(5)-1/2016**

**Case No. 1/2016**

In the matter of:

Date: of Decision: 22-11-2016

Sh. Guljar Muhammad

Appellant.

Versus

Deputy Commissioner,  
Distt.-Hamirpur, Himachal Pradesh.

Respondent.

**Subject:- Regarding discrimination with a blind person.**

The present petition filed by Sh. Guljar Muhammad vide which he had requested to fill up one post of Clerk reserved for visually impaired persons under 1% quota amongst 100 % blind persons category which was advertised by the office of Deputy Commissioner, Hamirpur, H.P.

In this regard, the undersigned vide this Department letter of even no. dated: 29/08/2016 had directed the respondent i.e.. Deputy Commissioner, Hamirpur to fill up the post reserved for visually impaired persons under 1% quota in the ratio of 2:1 totally blind vs. low vision. In reference to the said direction, the D.C., Hamirpur vide his letter No. DCH-Estt. (Reservation for Handicapped)/81-3213 dated: 24th September, 2016 has submitted that the advertisement issued by his office for the recruitment of one candidate for the post of Clerk on contract basis reserved for visually impaired category has been cancelled as the said post reserved for 100% visually impaired category. He has also submitted that the said post is being re-advertised very shortly and fresh recruitment process shall be initiated for the selection of suitable candidate in the 100% visually impaired (Blind) category.

Therefore, at this stage, the present appeal filed by the applicant is disposed of being devoid of any action.

*Anuradha Thakur*  
(Anuradha Thakur)

Commissioner (Disability)-cum-Secretary (SJ&E) to the  
Government of Himachal Pradesh, Shimla-02.

- 1 The Deputy Commissioner,  
District Hamirpur, H.P.
- 2 Sh. Guljar Muhammad s/o Sh. Sarif Mohammad,  
Vill.- Bhadrog, Tehsil-Ghumarwin, Distt. Bilaspur, H.P.

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**Before the Court of Hon'ble Commissioner (Disability)-cum-Secretary (SJ&E) to the Govt. of H.P.**

**No. SJE-B-E(5)-1/2016**

**Case No. 1/2016**

Date: of Decision: 29/08/2016

Sh. Guljar Muhamad

(Petitioner)

Vs.

Deputy Commissioner,  
Distt.- Hamirpur, H.P.

(Respondent)

**Subject:- Regarding discrimination with a blind person.**

This is with reference to case No. 1/2016 in the matter of Sh. Gulzar Mohammad v/s. Deputy Commissioner, Hamirpur. A notice was issued to you by the undersigned on 02-08-2016 and it was directed to furnish the reply of the notice within a week positively but no response has been received from your office in this connection.

2 Meanwhile, with reference to your letter of No. DCH-Estt./ (Reservation for Handicapped)81-2072 dated: 01-08-2016 received in this office, I am to state that in terms of, blindness vs. low vision, both come under one category u/s 33(i) of Persons with Disabilities Act, 1995. It has been the grouse of the 100% or near 100% VI persons that those with low vision are given preference in jobs and that they are being discriminated against.

3 One is certainly aware of the discrimination faced by the disabled and the prejudice they have to live with, in particular those with higher and complex levels of disability. This spills over in all spheres and more so, when it comes to employment. This is not to either influence the selection process or cast aspersions on candidates for the whole spectrum of disability, including those with lower levels of disability. As a society we are still learning to recognize the abilities of the disabled, there may remain an apprehension that those with higher degrees of disability may not be able to perform to the desired levels. This has been proved wrong repeatedly and in all spheres. Therefore, those who are born with or end up with higher percentage of disability should not be discriminated against only on account of this fact. Infact, all persons with disabilities need to be treated in a manner that encourages them to perform and work to their highest potential.



4 Attention is drawn to Deptt. of Personnel instructions dated: 16-01-2006 vide which it has been clarified that 1% reservation has been distributed to all the Visually Impaired Persons without considering the percentage of their disability. This matter was under consideration of the Government for quite some-time past. After a through scrutiny of the matter, it was decided that 1% reservation provided to the Visually Impaired Persons would be distributed further in between the totally blind and low persons in the ratio of 2:1 respectively, subject to the condition that this reservation will be given out of their own 1% quota i.e. their total percentage of reservation in services shall not exceed the limit of 1% reservation distributed to this category of the disabled persons. This makes it clear as to the policy in this regard. This was further reiterated by Deptt. of Personnel instruction letter No, Per (AP-C)-B(12)-1/2008 dated: 6-05-2008 vide which it has been submitted that the posts reserved for such totally blind persons cannot be filled up from the available suitable low vision disabled persons. Only in the eventuality of non-availability of totally blind suitable disabled persons against the posts reserved for them, then such reserved posts may be filled up given to the available suitable low vision disabled persons, provided they fulfil the low vision percentage criterion fixed for the purpose, subject to the condition that this reservation will be given to them out of their own 1% quota i.e. their total percentage of reservation in service shall not exceed the limit of 1% reservation distributed to this category of disabled persons.

5 Furthermore, Joint Commissioner (Disability) has laid down the distribution of marks vide letter No. 5-5/87-Wel-A-H (Reservation) dated 07-02-2008 (copy enclosed) to be adhered to in the selection of posts reserved for PwDs. As per this there is weightage to both educational qualification as well to disability level.

6 You are directed to adhere to Govt. instruction regarding 2:1 totally blind vs. low vision as well as the procedure for selection of Persons with Disabilities.

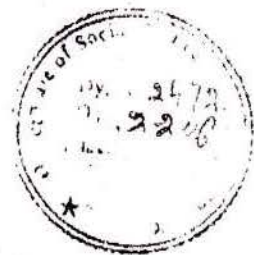
7. May report compliance in this regard by way of a factual report an action taken within 30 days.

*Anuradha*

**(Anuradha Thakur)**

*of* Commissioner (Disability)-cum-Secretary (SJ&E) to the  
Government of Himachal Pradesh, Shimla-02.

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No. PER. (AP)-C-B (12)-1/2005  
Government of Himachal Pradesh  
Department of Personnel (AP-III)

Dated Shjyula-171002, the 16<sup>th</sup> January, 2006.

From The Principal Secretary (Pers.) to the  
Government of Himachal Pradesh.

To

1. All the Secretaries to the Government of Himachal Pradesh.
2. All the Heads of Departments in Himachal Pradesh.
3. All the Deputy Commissioners in Himachal Pradesh.
4. All the Chairmen / Managing Directors / Secretaries / Registrars of all the Public Sector Undertakings / Corporations / Boards / Universities etc. in Himachal Pradesh.

*24-1-2006*  
*JDH/...*

*ll*  
*24*

Subject: Providing of reservation to the disabled persons in respect of Class-I to IV posts/services to be filled in by direct recruitment -- Instructions thereto regarding

*...*

Su. I am directed to say that the State Government has provided 3% reservation to the disabled persons in direct recruitment in respect of Class-III and IV posts/services vide Department of Personnel letter No. Karnok (NI-II) B (12)-11/76, dated 22-01-1981, which has further been split up 1% each to the Blind, Deaf and Orthopaedically Handicapped vide Department of Personnel letter No. Karnok (NI-II)-B (12)-11/76, dated 11-05-1981. Thereafter, 3% reservation has also been provided to the disabled persons in respect of Class-I and II posts/services in direct recruitment by the State Government vide Department of Personnel letter No. PER. (AP)-C-B (12)-1/99, dated the 2<sup>nd</sup> December, 1999.

2. Pursuant to these instructions, 10% reservation has been distributed to all the Visually Impaired Persons without considering the percentage of their disability. This matter was under consideration of the Government for quite some-time past. After a through scrutiny of the matter, it has now been

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decided by the Government that henceforth, 1% reservation provided to the Visually Impaired Persons may be distributed further in between the totally blind and low vision persons in the ratio of 2:1 respectively, subject to the condition that this reservation will be given to them out of their own 1% quota i.e. their total percentage of reservation in services shall not exceed the limit of 1% reservation distributed to this category of the disabled persons.

3. These instructions may please be followed strictly and also brought to the notice of all concerned for compliance.

Yours faithfully,

*[Signature]*

Deputy Secretary (Pers.) to the Govt. of Himachal Pradesh.

Encl. No. PER (AP)-C-B (121-0/2005, Dated Shimla 171002, the 16<sup>th</sup> Jan., 2006

Copy forwarded for information and necessary action to:-

1. The Secretary, H.P. Vidhan Sabha, Shimla-171004
2. The Registrar General, Hon'ble High Court of H.P. Shimla-171001.
3. The Registrar, H.P. Administrative Tribunal, Shimla-171002.
4. The Secretary, H.P. Public Service Commission, Shimla-171002.
5. The Secretary, H.P. Subordinate Staff Selection Board, Hamirpur, H.P.
6. Spare Copies-150.

*[Signature]*

Deputy Secretary (Pers.) to Govt. of Himachal Pradesh



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No. PER. (AP)-C-B (12)-1/2008  
Government of Himachal Pradesh  
Department of Personnel (AP-III).

Dated Shimla-171002, the 6th May 2008

From

The Secretary (Pers.) to the  
Government of Himachal Pradesh.

To

1. All the Secretaries to the  
Government of Himachal Pradesh.
2. All the Heads of Departments in Himachal Pradesh.
3. All the Deputy Commissioners in Himachal Pradesh.
4. All the Chairmen / Managing Directors / Secretaries /  
Registrars of all the Public Sector Undertakings /  
Corporations / Boards / Universities etc. in Himachal  
Pradesh.

Subject: -

Providing of reservation to the disabled persons in  
respect of Class- I to IV posts services to be filled in by  
direct recruitment -- Instructions thereto regarding.

Sir,

DS (SSE)  
AS

I am directed to invite your kind attention to the  
instructions issued by the Govt vide this Department's letter No. PER.  
(AP)-C-B (12)-1/2005 dated the 16<sup>th</sup> January, 2006 on the subject noted  
above and to say that it has come to the notice of Government that in some  
cases, totally blind suitable persons are not becoming available against the  
posts reserved for them. Hence, the posts reserved for such totally blind  
persons cannot be filled up from the available suitable low vision disabled  
persons.

2. In order to meet with this eventuality, it has now been  
decided by the Government that henceforth, in the event of non-availability  
of totally blind suitable disabled persons against the posts reserved for them,  
then such reserved posts may be filled up given to the available suitable low

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-2-

vision disabled persons, provided they fulfil the low vision percentage criterion fixed for the purpose, subject to the condition that this reservation will be given to them out of their own 1% quota i.e. their total percentage of reservation in services shall not exceed the limit of 1% reservation distributed to this category of disabled persons.

3. These instructions may please be followed strictly and also brought to the notice of all concerned for compliance.

Yours faithfully,

*P. Prakash*

Deputy Secretary (Pers.) to the Govt. of Himachal Pradesh.

Enclat. No. PER. (AP).C.B. (13)-1/2002, Dated Shimla-171002, the 6<sup>th</sup> May 2002.

Copy forwarded for information and necessary action to:-

1. The Secretary, H.P. Vidhan Sabha, Shimla-171004.
2. The Registrar General, Hon'ble High Court of H.P., Shimla-171001.
3. The Registrar, H.P. Administrative Tribunal, Shimla-171002.
4. The Secretary, H.P. Public Service Commission, Shimla-171002.
5. The Secretary, H.P. Subordinate Services Selection Board, Hamirpur, H.P.
6. Spare Copies-150.

*P. Prakash*

Deputy Secretary (Pers.) to the Govt. of Himachal Pradesh.



(38) (20)

**TIME BOUND/PERSONAL ATTENTION**  
**HIGH COURT MATTER**

No: -5-5/87-Wei-A.H. (Reservation)  
Directorate of Social Justice & Empowerment,  
Himachal Pradesh, Shimla-171009.

To

The Head of Department in  
----- Department,  
Himachal Pradesh.

Dated, the Shimla-171009. 7/2/08

Subject:- Regarding filling up of posts reserved for PWDs.

Sir/Madam,

In continuation of this Directorate letter of even No. dated 24-1-2008 on the subject cited. In this context, this is to inform that uniformity has to be insured in the selection process by all the departments by giving due weightage to disability and performance. Therefore during the selection process you are requested to ensure distribution of marks as under:-

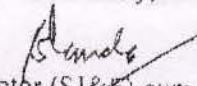
- |   |                  |
|---|------------------|
| a) Weightage for performance in the minimum educational qualification prescribed for the post | = 10 marks       |
| (% obtained divided by 10)  |                  |
| b) Weightage for additional qualification   | = 4 marks        |
| (% obtained divided by 20)  |                  |
| c) Weightage for maximum disabilities as certified by the Medical Board.                      | = 6 marks        |
| (40%-59%=2 marks)   |                  |
| (60%-74%=4 marks)   |                  |
| (75% and above-100%=6 marks)  |                  |
| d) Personal interview   | = 5 marks        |
|   | Total = 25 marks |

Request are also being received from Associations of disabled persons that dates of the interviews should be announced on the All India Radio to ensure wide communication and timely notice to all the candidates especially the visually impaired, who don't have access to any <sup>other</sup> mode of communication. Therefore, you are requested to get the dates of interviews announced on AIR in addition to issuing the call letters.

You are requested to apprise the undersigned about the progress made in the matter sofar.

Kindly ensure that entire selection process is completed before 29-2-2008

Yours faithfully,

  
Director (S.I.&E)-cum-  
Joint Commissioner(Disabilities)  
Himachal Pradesh.