

**Complaint (ULP) No. 259/2022****Exh. CW-1****Resumed on S.A :-****cross-examination by Shri. J. N. Tiwari, Ld. Advocate for the Complainant :-**

17. Since 07.06.2011, I am working as a Chief Medical Officer with BEST Undertaking. It is correct to say that the employees working in dispensary are working under me. It is correct to say that as per the record the complainant was working in the Electricity Department of respondent no. 1. It is correct to say that the statements in 3 and 4 of my affidavit are in respect of transport division. Witness volunteers that medical benefits are given to all the employees of all the departments.

18. I have gone through the medical papers of the complainant submitted to the opponent no. 1. Now Article-B collectively are shown to witness. Witness has admitted the document. Hence, they are marked as **Exh. U-10/1**, **Exh. U-10/2**, **Exh. U-10/3** and **Exh. U-10/4** respectively. Document no. 5 (Page no. 9 & 12) with list Exh. U-9 is shown to me. Witness has admitted the said documents. Hence, said documents are marked as **Exh. U-11** and **Exh. U-12** respectively. Now the document at Sr. No. 6 is shown to the witness. Witness has admitted that the document is received them. Hence, it is marked as **Exh. U-13**.

19. It is correct to say that in Exh. C-6, the disability means the mental illness is one of the part of the disability. It is correct to say that if the person has 40% disability then he is entitled for alternate employment. Now Exh. U-11 is shown to the

witness. This certificate Exh. U-11 is unauthorized. As per G. R. of 2012 of State of Maharashtra, the disability certificate has to be issued by Government Authorized Board and should be in a computerized form and not in manual form. Now Exh. U-12 is shown to the witness. I have to check that whether the respondent no. 1 has referred the complainant before the Medical Board. We have not submitted a letter referring him before the Medical Board, but we referred him by letter only. It is correct to say that since 2016 till his date of retirement, the complainant was not given the alternate employment. Witness volunteers that, he has not fulfilled the requirements as per Circular of 2014 of computerized disability certificate. We have given leave for the accident while on duty. I can file the documents later on.

**20.** It is correct to say that since 2016 to May-2020, we have not given wages to the complainant. Witness volunteers we have given leave for two months to the complainant and wages were not given as he was not on duty and unauthorizedly absent from the duty. The person from the said department can say that whether any notice issued to the complainant for his absenteeism. It is correct to say that even after receiving permanent unfit certificate, the respondent no. 1 continued the complainant in his services till his retirement. I do not know whether the union has requested for giving the job to the son of complainant, in place of the complainant. It is not correct to say that after the accident of complainant on duty and after giving the permanent disability certificate the respondent no. 1 was liable to pay full wages to the complainant. Witness volunteers that the complainant was had accident on duty and was made fit. However, he has produced a

psychiatric / mental illness. Both the things are different. It is not correct to say that the opponent no. 1 is liable to pay full wages to the complainant since 01.10.2016 to 31.05.2020 of Rs. 19,10,392/-.

**21.** We have complied the Circular No. 317 and 406 regarding alternate employment on account of Person with Disabilities Act. I do not know the complainant has vacated the quarter after the orders of the Hon'ble High Court. It is not correct to say that by not giving wages to the complainant, the BEST has committed the unfair labour practice. I am not aware for what period the gratuity was given to the complainant. It is not correct to say that, I am deposing false.

**No Re-Exam.**

R.O.A.C.,

Place :- Mumbai

**(Smt. A. C. Raut),**  
Member,

Date :- 29.09.2025.

Industrial Court, Mumbai.

SPC/-