



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

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Case No- 14171/1021/2023**In the matter of:**

Shri Ram Krishna Shukla

...Complainant

The Commissioner

Kendriya Vidyalaya Sangathan

...Respondent

1. HEARING:

A Hearing in hybrid mode (online/offline) was conducted on 12.06.2025. at the Office of the Chief Commissioner for the Persons with Disabilities, Dwarka, New Delhi. The following parties/representatives were present during the hearing:

S. No.	Name and designation of the Party/Representative	For Complainant/Respondent	Mode of attendance
1.	Shri Ramkrishna Shukla - Complainant	Complainant	Not Appeared
2.	Saurabh Jaitly, Assistant Commissioner, Kendriya Vidyalaya Sangathan (Estt. 2&3)	Respondent	Online

2. RECORD OF PROCEEDINGS:

2.1 The Complainant informed the Court that he would not be in a position to appear in person and requested that the matter be taken up based on his written submissions already on record.

2.2 The Court inquired from the Respondent whether the 4% reservation for PwBDs had now been implemented in accordance with applicable legal provisions.

2.3 The Respondent submitted that the 4% reservation would be implemented in the forthcoming recruitment cycle. They further stated that the shortfall of 1% from the previous cycle, which was not provided earlier, would be included in the upcoming recruitment, and affirmed their commitment to ensuring the full 4% reservation henceforth.

2.4 The Court posed a specific query as to why, in the case of promotions—particularly where Review Departmental Promotion Committees (DPCs) can be constituted—the implementation of reservation should only be prospective, particularly for the candidates who were adversely affected due to an erroneous administrative interpretation. The Court further observed that the DoPT Office Memorandum dated 28.12.2023 clearly stipulates that, if required, review DPCs should be conducted, and where a waiting list of eligible candidates exists, it should be utilised even without such a review. The Court sought clarity on why review DPCs were not being undertaken in this context. The relevant extracts of the said instruction are quoted below:

“5 (i) PwD employees in posts and services of the Central Government, will be considered for grant of the benefit of reservation in promotion up to the lowest rung of Group 'A' on notional basis w.e.f. 30.6.2016 subject to their fulfilment of the eligibility conditions as laid down in the DoPT OM of even number dated 17.5.2022 regarding reservation in promotion to PwDs. However, the extent of reservation in promotion may be in accordance with the relevant provisions contained in the PwD Act 1995 and RPWD Act 2016. Further, this benefit may be extended after holding Review DPC as per the extant instructions issued by DoPT on the subject. In case the PwD employees are found eligible and suitable for promotion from any date subsequent to 30.6.2016, then the benefit of reservation in promotion may be extended to them from the date they become eligible for promotion.”

2.5 The present matter pertains to the LDCE conducted for the years 2022 and 2023. The Court raised a specific issue regarding the non-application of the reservation for PwBDs with retrospective effect from the year 2016. The Court observed that retrospective application appeared to be both legally and procedurally feasible and accordingly sought a detailed justification from the Respondent for its non-implementation. The Court stated that, should the Respondent affirm its commitment to implementing 4% reservation from the

forthcoming recruitment cycle, then it is advised that notional promotions may be granted to the eligible complainant in accordance with the applicable policy.

2.6 The Court further observed that the Complainant had been permitted to appear in the LDCE 2022, which implied that there was no dispute regarding his eligibility. Therefore, the only issue pertains to the computation of results wherein the mandated reservation had not been applied at that time. The Court noted that while the Respondent is currently implementing the 4% reservation (including for Group A and B posts), it had previously implemented only 3%, and not for all groups. The central point of contention remains the Respondent's position to apply the revised reservation prospectively from 2023, while the Court seeks to understand the legal authority and justification for not applying it retrospectively from 2016, the year of the RPwD Act implementation. During the hearing, the respondent failed to provide clarity on the complainant's eligibility or the basis for denying reservation in the 2022 LDCE.

2.7 Upon considering the gravity of the matter, the Court emphasises that administrative lapses cannot override statutory obligations. The RPwD Act, relevant Office Memoranda issued by the DoPT, and binding precedents of the Hon'ble Supreme Court of India mandate full and retrospective implementation of reservation in promotion for PwBDs.

2.8 In view of the above, the Court recommends that the Respondent shall submit an explanation along with an action plan to address the grievance of the Complainant in the light of the legal framework explained above within 15 days of receipt of this record of proceedings and The action plan should include the determination of eligibility of the Complainant for his promotion from the date his seniority was covered under the PwBD quota for reservation in promotion on or after 30.06.2016. On the basis of the Action Taken Report and the Action Plan, the case will be disposed of without further hearing.

2.9 This is issued with the approval of the Commissioner for Persons with Disabilities.

(Praveen Prakash Ambashta)

Dy. Chief Commissioner