



COURT OF CHIEF COMMISSIONER FOR PERSONS WITH DISABILITIES (DIVYANGJAN)
Department of Empowerment of Persons with Disabilities (Divyangjan)
Ministry of Social Justice and Empowerment
Government of India

Case No. CCPD/15306/1011/24

Dated: 12/04/2025

Complainant (s):

Shweta Sharma

Respondent (s):

The Director General
Indian Council of Medical Research

... Respondent (1)

The Director ICMR – National Jalma Institute
of Leprosy and Other Mycobacterial Diseases

... Respondent (2)

The Secretary
Ministry of Health and Family Welfare

... Respondent (2)

Hearing (I) :

A hearing in hybrid mode (online/offline) was conducted on 13.02.2025.
The following parties/representatives were present during the hearing:

Sl.No.	Name of the parties/Representatives	For Complainant/ Respondent
1.	Ms. Shweta Sharma	Complainant



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2.	Adv. Arun Sanwal	For Respondent 1& 2
3.	Mr. Anant Kumar, Under Secretary, Ministry of Health and Family Welfare	Respondent 3

RECORD OF PROCEEDINGS

At the outset of the proceedings, the Complainant outlined her grievance, stating that the advertisement for the post of technician at ICMR-NJIL & OMD Agra did not include a reservation for PwD. The complainant believed she would be granted the reservation for the position because earlier ICMR-NIMR, Delhi too had similar advertisement without providing reservation, but upon declaring the result, it had reserved vacancies for the PwD category. In contrast, JALMA did not follow the same practice.

2. Learned Adv. Arun Sanwal, appearing for Respondents 1 & 2, argued that the Complainant did not qualify for the selection. In response, the Complainant clarified that while a PwD candidate needs to secure 50% marks to qualify, she secured a score of 58.55%. The Complainant then requested that the respondents provide a copy of the reservation roster to identify those who had been appointed. The Complainant pointed out that there were five appointments made under locomotor disability, as stated in the reply, which constitutes a violation of Section 34 of the Act.



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3. The Advocate for the Respondents (1&2) stated that JALMA had reserved seven vacancies for PwD candidates as per the reservation roster. Of these, five vacancies were filled by candidates with locomotor disabilities, one by a candidate with blindness or low vision, and one by a candidate with hearing impairment. Additionally, one vacancy reserved for PwD in the post of Technician in Group C & D under the same advertisement remained unfilled as no eligible PwD candidate could achieve the required score. The learned Advocate asserted that the prescribed reservation roster has been fully adhered to.

4. Sh. Anant Kumar, representing Respondent 3, stated that this is a local issue and at this stage, no intervention is required from their side. He further clarified that ICMR is part of the Department of Health and Research, which is a separate entity, and that no reply has been filed yet, but one will be submitted.

5. Regarding the issue of the jurisdiction and maintainability of the case before this Court, as was raised by the learned Advocate for Respondent on the ground of this being a service matter, namely recruitment, and within the exclusive jurisdiction of the CAT, the Complainant requested the CCPD to pursue the case, asserting that it was her right as a person with disability to approach this Court.

6. The Court responded to the issue of maintainability of this matter before it, by referring to Section and 75 (1) of the RPwD Act, which inter alia provides as under:



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1(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;

1(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;

.....

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

7. The Court further referred to the provisions of Section 34 of the Act, which mandates that every appropriate government must appoint at **least four percent of the total vacancies** in each group of posts within every Government establishment, specifically for persons with benchmark disabilities. This forms the basis of the DoP&T's instructions on Reservation rosters for PwDs. Thus, there is no doubt that the right to reservation in appointment is a right enshrined in the Act and the monitoring implementation of the same is an explicit mandate of the CCPD under 75 (1) (h). The Act further grants the CCPD significant authority to inquire into and investigate such matters.

8. Sec 77 of the Act makes the following stipulations –



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"The Chief Commissioner shall, for the purpose of discharging his functions under this Act, have the same powers of a civil court as are vested in a court under the Code of Civil Procedure, 1908 while trying a suit, in respect of the following matters, namely:-

- (a) summoning and enforcing the attendance of witnesses;*
- (b) requiring the discovery and production of any documents;*
- (c) requisitioning any public record or copy thereof from any court or office;*
- (d) receiving evidence on affidavits; and*
- (e) issuing commissions for the examination of witnesses or documents."*

9. After hearing both parties, the Court observed that the Complainant was not selected and she wants to know the reasons for the same. The Respondents (ICMR) assert that no legal provisions were violated. The Court seeks clarification under the RPwD Act regarding the selection of all five candidates out of the seven. And how all candidates selected were from the locomotor disability category only. The Court requires clarity on this, which categories within PwD are suitable, and how the candidates were accommodated.



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10. The Court has granted one week's time for the Respondents to provide a supplementary affidavit that will clarify the reservation and the reasons for the Complainant's rejection. A copy of the same be forwarded to the Complainant, who shall submit her response with a further period of one week.

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

Yours faithfully,

(Praveen Prakash Ambashta)
Dy. Chief Commissioner



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Office of Chief Commissioner for Persons with Disabilities(Divyangjan)
5th Floor, NISD Building, Plot No.G-2, Sector-10, Dwaraka, New Delhi-110075
Tele# 011-20892364, 20892275
E-mail: ccpd@nic.in