



सत्यमेव जयते

न्यायालय मुख्य आयुक्त दिव्यांगजन

COURT OF THE 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. CCPD/13646/1011/2023

In the matter of:

Dharmendra Kumar Sah

...Complainant

Versus

The General Manager,

State Bank of India (SBI)

...Respondent

1. Gist of Complaint:

1.1 Shri Dharmendra Kumar Sah, a person with 100% visual impairment, filed a complaint against SBI on 22.08.2022 regarding irregularities in appointments to the post of Probationary Officer under Advt. No. CRPD/PO/2021-22/18. Although he qualified in the Unreserved category with 47.73 marks, above the OBC cut-off of 47.41, SBI placed him in the Visually Impaired (VI) category, citing that he availed of relaxation.

1.2 The Complainant argued this violated Section 34 of the Rights of Persons with Disabilities Act, 2016 (hereinafter referred to as RPWD Act, 2016) and requested that the merit list be revised accordingly.

2. Notice issued to Respondent:

2.1 A notice dated 11.01.2023 was issued by this Court under Sections 75 and 77 of the RPwD Act, directing the Respondent to furnish their comments on the complaint and place on record supporting documents and justifications, if any.

3. Reply filed by Respondent:

3.1 Respondent filed their reply dated 31.01.2023 and stated that candidates with disabilities who avail examination relaxations (like extra time or a scribe) are considered under the PwD category, not General or Parent categories. Since Shri Dharmendra Kumar Sah used both extra time and a scribe, he was classified under PwD-VI.

3.2 SBI clarified that all 21 VI-reserved vacancies were filled, and the cut-off for VI was 49.93, whereas the complainant scored 47.72, making him ineligible. Therefore, SBI argued no discrimination occurred under the RPwD Act, 2016. SBI also contended that the Court lacks jurisdiction to decide the matter.

3.3 SBI also submitted that this Court is not competent to adjudicate the grievance of the Complainant.

4. Rejoinder filed by Complainant:

4.1 The Complainant filed a rejoinder dated 18.02.2023 and submitted that SBI's definition of "relaxation" was incorrect, referencing the DoP&T OM dated 27.09.2022, which clarified that compensatory time and scribe assistance should not be considered as relaxed standards. The OM also emphasised that PwBD candidates selected on their own merit should not be adjusted in the reserved category, and disabilities should not be treated as a relaxed standard in medical tests.

4.2 The Complainant further cited the Supreme Court's judgment in *Vikash Kumar v. UPSC (Civil Appeal No. 273 of 2021)*, arguing that it should apply to his case.

5. Hearing (I):

5.1 An online hearing through video conferencing was conducted on **18.12.2023.**

6. Record of Proceedings (I):

6.1 During the hearing, the Complainant argued that he did not benefit from any relaxed standards and had qualified in the Unreserved (UR) category. Despite securing marks above the OBC cut-off, his name was not in the final list. SBI initially stated he was considered under the PwD-VI category due to the use of a scribe and compensatory time, which they mistakenly treated as a relaxation. The Complainant contested this, citing the Supreme Court judgment and DoPT guidelines that classify these accommodations as reasonable rather than relaxed standards.

6.2 The Court agreed with the Complainant and pointed out errors in the Respondent's understanding, highlighting that PwBD candidates should be considered under their own merit if their marks exceed the cut-off for UR. The Court directed the Respondent to clarify several points, including:

- (a) The names and marks of selected candidates, and whether any PwBD-VI candidates exceeded the UR cut-off.
- (b) The marks of the top PwBD-VI candidate and their category of selection.
- (c) Whether all reserved PwBD-VI seats were filled or any seats were vacant.

6.3 The Respondent was given 7 days to provide clarification.

7. Action taken report after hearing (I):

7.1 The Respondent filed its reply dated 28.12.2023 to the queries made by

this Court as under:—

(a) A total of 21 PwBD (VI) candidates have been filled up, and no PwBD (VI) seat is lying vacant.

(b) The cut off for UR category was 53.40, and 21 PwBD (VI) candidates had secured more than the cut off marks of the unreserved category and got selected as per the list as under:—

Sl. No.	Name	Total Marks (out of 100)
1.	Mohamed Siddiq S	63.92
2.	Saranya R	63.40
3.	Km Ruchi Dubey	62.98
4.	Sahlini Rana	62.18
5.	Kancha Saini	62.16
6.	Gudimella Lakshmi Bharadwaj	61.44
7.	Darshit Laxmikant Moharir	60.17
8.	Sachin Kumar V	60.05
9.	Umesh Singh	58.21
10.	Kiruba Shankaran S T	57.89
11.	Deepak Virbhan	57.60
12.	Anish Kumar	57.37
13.	Divya Gupta	57.36
14.	Youvraj Kishor Zope	55.49
15.	Mohd Mujtaba Ali	55.20
16.	Mehr Khurana	54.97
17.	Kedar Kailas Kshirsagar	54.83
18.	Velan P	54.29
19.	Rahul Dattatray Patil	54.27
20.	Alrice Dorine Alva	54.16
21.	Machagari Maruthireddy	53.40

8. Hearing (II):

8.1 A hearing in hybrid mode (online/offline) was conducted on **21.05.2025**.

The following parties/representatives were present during the hearing:

S. No.	Name and designation of the Party/Representative	For Complainant/Respondent	Mode of attendance
	Mr. Dharmendra Kumar Sah – Complainant	Complainant	Online
	Mr. Devjeet Mitra – General Manager, SBI; and Shashibhushan Chaudhary – DGM, Central Recruitment & Promotion Department, SBI.	Respondent	Online

9. Record of Proceedings (II):

9.1 The Court noted that the Complainant, with a score of 47.73, exceeded the OBC cut-off of 47.41, qualifying him for consideration in the OBC or Unreserved category on his own merit. However, SBI incorrectly classified him under the PwBD-VI category due to the use of a scribe and compensatory time, which were mistakenly treated as relaxed standards. This misclassification, rather than the score difference, led to his non-selection, as SBI failed to apply the “own merit” principle as per DoPT guidelines and the RPwD Act, 2016.

9.2 The court further noted that the Respondent failed to respond to a query raised in the previous hearing regarding the marks of the top PwBD-VI candidate and their category of selection.

10. Observation and Recommendations:

10.1 At the outset, this court notes that as per Para 3 of the **OM No.29-6/2019-DD-III, dated 10.8.2022**, issued by the Department of Empowerment of Persons with Disabilities, the facility of a scribe, along with compensatory time, shall not be treated as a relaxed standard. This understanding is also captured in clause 3 (ii) of the **O.M. dated 22.09.2022 issued by the Department of Personnel and Training bearing no. 36012/14/2022 – Estt. (Res).**

10.2 As per the judgment of the Hon'ble Supreme Court in the case of **UOI & Ors. v. M. Selvakumar and Anr. (2017) 3 SCC 504**, the grant of concessions/affirmative action measures is a form of reasonable accommodation for PwDs.

10.3 SBI's denial of the benefit of the OBC category to the Complainant is in the teeth of the office memoranda and is also contrary to the "own merit" principle. Para 4 of the DoPT OM dated 15.01.2018, provides as under:

"4. ADJUSTMENT AGAINST UNRESERVED VACANCIES:

4.1 In the category of posts which are identified suitable for persons with benchmark disabilities, a person with benchmark disability cannot be denied the right to compete for appointment by direct recruitment against an unreserved vacancy. Thus a person with benchmark disability can be appointed by direct recruitment against vacancy not specifically reserved for the persons with benchmark disability, provided the post is identified suitable for persons with benchmark disability of the relevant category.

4.2 Persons with benchmark disabilities selected without relaxed standards along with other candidates, will not be adjusted against the reserved share of vacancies. The reserved vacancies will be filled up separately from amongst the eligible candidates with benchmark disabilities which will thus comprise of candidates with benchmark disabilities who are lower in merit than the last candidate in merit list but otherwise found suitable for appointment, if necessary, by relaxed standards."

10.4 A reasonable accommodation is a statutory entitlement of a PwD that enables them to compete on an even platform with their able-bodied counterparts in line with Sections 2(y), 3(2), 3(5) of the RPWD Act, 2016. Treating the same as a relaxed standard does a huge disservice to the salutary purpose and object behind the grant of reasonable accommodation.

10.5 SBI is recommended to ensure that all future recruitment processes carried out by it are in alignment with the above understanding.

10.6 An Action Taken Report be filed with this court within a period of 3 months in accordance with Section 76 of the RPwD Act, 2016.

10.7 Accordingly, the case stands disposed of.

(Rajesh Aggarwal)
Chief Commissioner for Persons with Disabilities