



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/14005/1014/2023

In the matter of-

Ms. Ankita Khandelwal

...Complainant

Versus

The Chairman,

Staff Selection Commission

1

...Respondent No.

The Secretary,

Department of Personnel & Training,

Ministry of Personnel,

Public Grievances and Pensions,

Government of India

2

...Respondent No.

The Comptroller and Auditor General of India

...Respondent No. 3

RECORD OF PROCEEDINGS

1. Hearing (II)

1.1 A hearing in hybrid mode (online/offline) was conducted on

28.02.2025. The following parties were present:

S. No.	Name of Party	Mode of Appearance	Appearing For
1	Ms. Ankita Khandelwal	Online	Complainant
2	Mr. Sanjay Kashyap, Under Secretary, SSC	Online	Respondent No. 1
3	Mr. Sandip Saxena, Deputy Secretary, DoPT	Online	Respondent No. 2
4	Dr. S. S. Hooda	Online	Respondent No. 3

2. Record of Proceedings

2.1 At the outset, the Complainant stated that she is a person with **locomotor disability - Both Arms Affected (BA)**. She applied for the post of **Assistant Audit Officer (AAO)**. At the time of submitting her application, the notification did not indicate that candidates with BA were unsuitable. She discovered the alleged unsuitability only upon publication of the eligibility list.

2.2 The representative of SSC referred to **Para 14 (2)** of the advertisement, noting that the **User Department** is responsible for verifying the educational qualifications and suitability of candidates. In this case, Respondent No. 3 (CAG) is the competent authority to determine functional suitability.

2.3 Counsel for Respondent No. 3 submitted the following:

(a) Under the proviso to **Section 34 (2) of the RPwD Act**, if a particular category of disability cannot be accommodated for functional reasons, vacancies may be interchanged among the five disability categories with prior approval of the appropriate Government. He relied on the **minutes dated 07.12.2017**, wherein it was decided that all Cadre Controlling Authorities would constitute Expert Committees to identify suitable disability categories for their posts.

(b) Pursuant to this, Respondent No. 3 convened an Expert Committee meeting on **14.05.2018**, which concluded that the post of AAO is suitable only for candidates with **OH, VH, OA, and OL**.

Candidates with **BA** were not included.

(c) He further referred to **Note 8** of the **DEPwD Notification dated 04.01.2021** (List of Posts Identified Suitable for PwBDs), stating that it is for each Department to assess functional suitability. He also cited the pending matter before the **Delhi High Court in W.P.(C) 5904/2023**, the judgment of which was awaited on the date of hearing.

2.4 The representative of DoPT submitted that the dispute pertains to SSC and CAG, and DoPT has **no role** in the specific controversy.

2.5 In rejoinder, the Complainant submitted that the DEPwD's **Notification dated 04.01.2021** itself identifies the post of AAO as suitable for candidates with BA. She further clarified that her functional limitations affect only her left hand, and while her right hand lacks a thumb, it remains usable for work.

3. Observations / Recommendations

3.1 The Court notes that Respondent No. 3 appears to have taken **inconsistent positions** regarding the applicability of the **Notification dated 04.01.2021**. While relying on Note 8 of the OM to defend its authority to assess functional suitability, Respondent No. 3 simultaneously disregards the identification of AAO as suitable for candidates with BA under the same notification.

3.2 The Court further notes that the **DEPwD OM dated 08.11.2024** (Guidelines concerning identification of posts for PwBDs and reservation in Central Government establishments, issued in compliance with W.P. (C) 17460/2022 & 665/2023) **supersedes all previous OMs**. Clause 2.1(VI) states:

*“(a) Every post under the Central Ministry/Department... needs to be considered for determining its suitability for persons with benchmark disabilities, and no post should be left out. In case any post is left out, such a post will be deemed to be open for all categories of disabilities which are eligible for reservation, **unless it is exempted by notification of DEPwD.**”*

(b) Each Central Ministry/Department will constitute a committee consisting of representatives of persons with benchmark disabilities and recommend suitable posts for PwDs to

DEPwD for consideration and notification, wherever necessary. This committee should have at least one representative with benchmark disabilities each from following categories:

- *blindness and low vision;*
- *deaf and hard of hearing;*
- *locomotor disability including cerebral palsy, leprosy cured, dwarfism, acid attack victims and muscular dystrophy; and*
- *autism, intellectual disability, specific learning disability and mental illness.*

*The said Committee is required to look into the suitability of each/all post(s) in their establishments for specified category of disabilities taking into consideration the development in assistive technologies, the principal list of identified posts dated 04.01.2021 and global benchmarks in employment of PwDs. Such Committee is to be constituted at the level of Ministry/ Departments only, and not below that by PSUs/ autonomous bodies etc. and should be headed by Additional/Joint Secretary level officer. In terms of Note 2 of the gist of recommendations contained in DEPwD's notification dated 04.01.2021, the Ministry/Department may add to the list of posts or the subcategory/ category of disability based on the recommendations of the above mentioned Committee under intimation to this Department. However, **no post or category or sub category existing in the notification of DEPwD dated 04.01.2021 or any such notification issued on the subject subsequently by the DEPwD can be reduced without obtaining approval of DEPwD.***

3.3 No exemption has been sought or obtained by Respondent No. 3. Accordingly, the post of AAO must be treated as **open to all disability categories**, including BA.

3.4 Based on the submissions and documents on record, the Court is of the view that the Complainant appears **functionally suitable** for the post. Respondent No. 3 is expected to meet its statutory obligations under the RPwD Act and the updated identification guidelines.

3.5 Respondent No. 3 is therefore advisted to forward a **written response containing its arguments** within **15 days** from the date of issuance of this RoP.

3.5 The Court expects Respondent No. 3 to place its response keeping in view the **RPwD Act, 2016**, the governing identification guidelines, and the broader objective of ensuring equality and non-discrimination for persons with disabilities. Upon receipt of the written submissions, the matter will be reexamined by the Court for any requirement of a further hearing or disposal of the case with or without recommendation, as required.

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

(P.P. Ambashta)

Dy. Chief Commissioner