



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. 13987/1021/2023

In The Matter of:

Shri Rajeev Kumar Jaiswal

...Complainant

VERSUS

The Commissioner,

Delhi Development Authority

...Respondent

1. HEARING:

1.1 A hearing was held on **01.04.2025** in hybrid mode [online/offline]. The following parties/ their representatives were present:

S. No.	Name and Designation of Attendees	Mode of Appearance	On Behalf of
1.	Shri Rajeev Kumar Jaiswal	Online	Complainant
2.	Mr. V.K. Saha, Director, Personnel, Delhi Development Authority	Online	Respondent
3.	Advocate Prabhat Jeewan, Counsel for the Complainant	Online	Complainant

2. RECORD OF PROCEEDINGS:

2.1 At the outset, the Complainant reiterated his grievance about the non-grant of promotion to him from the post of Legal Assistant to the post of Junior Law Officer ["JLO"]. It was his say that the vacancy

earmarked for those with benchmark disability was wrongly given to a candidate with an orthopaedic disability who was preferred over the Complainant.

2.2 Learned Counsel for the Complainant referred to paragraph 2.2 of the OM dated 17.05.2022. The Court enquired as to where the sequence is prescribed in the aforesaid OM, as to which roster points are to be earmarked for which disability category.

2.3 Learned Counsel for the Complainant relied on S. 34 (1) (a) of the RPwD Act. The Court drew the Complainant's attention to paragraph 10.3 of the OM dated 17.05.2022, as per which the head of the department is empowered to determine the sequencing of the roster points reserved for persons with benchmark disabilities.

2.4 The Complainant argued that his juniors were promoted over him, thereby allowing them to steal a march over him.

2.5 The Respondent argued that for JLO, they have 22 cadres. 17 are filled up through promotion and 5 through direct recruitment. There were a total of 12 vacancies. In promotion, there is no reservation quota followed by them. They clarified that the post in question is a group b non-gazetted post.

2.6 The Court asked as to whether the Respondent is maintaining rosters on a group-wise basis rather than post-wise basis, to which the Respondent responded in the affirmative.

2.7 The Court drew the Respondent's attention to O.M. dated 28.12.2023 issued by the DoP&T, as per which reservation in promotion has to be given effect to w.e.f 30.06.2016 and asked the Respondent to share the rosters maintained by it from the aforesaid date for Group B posts, and with particular reference to blind and low vision candidates. It also clarified that the Respondent needs to revisit the concepts of horizontal and vertical reservation and ensure that its approach is in consonance with the Supreme Court's judgment in ***Mahesh Gupta and Others versus. Yashwant Kumar Ahirwar and Others (2007) 8 SCC 621.***

2.8 The Court directed the Respondent to submit its reservation rosters, as indicated in paragraph 2.7 supra. It must also furnish a

reasoned justification for not promoting the Complainant to the post of JLO. In case the Respondent acknowledges that a mistake has been committed, it must offer a remedy to repair the harm caused to the Complainant.

2.9 The Respondent was further directed to file their response on the above terms within 15 days from the date of the issuance of this ROP. The Complainant is allowed a further time of 7 days to file his rejoinder to the same. The Court will accordingly determine whether another hearing is required or the case can be disposed of based on the oral and written submissions on record.

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

(Praveen Prakash Ambashta)
Dy. Chief Commissioner