



## 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. 14479/1022/2023**

#### Complainant(s) :

Shri N Suryanarayana Raju

#### Respondent (s):

The Secretary

Ministry of Ports

**...Respondent (1)**

The Chief Engineer & Administrator

Andaman Lakshadweep Harbour Works **...Respondent (2)**

#### 1. Gist of complaint:

1.1 Shri N. Suryanarayana Raju, a person with benchmark locomotor disability, submitted his complaint on 06.09.2023. He currently serves as an Assistant Engineer (Civil) at ALHW Port Blair and seeks to have his transfer order cancelled and be posted closer to his hometown.

1.2 The Complainant joined ALHW as a Junior Engineer in 1987 and has served for 36 years, receiving only one promotion—to Assistant Engineer—under the unreserved category. Due to limited awareness of disability rights, he could not access benefits available to persons with disabilities (PWDs). Despite ALHW's policy exempting PWD employees from routine transfers, he was frequently transferred without justification. His repeated requests for a posting closer to his hometown were consistently denied, even when he was posted to remote areas.

## **2. Notice issued to the Respondents:**

2.1 Pursuant to Sections 3, 20(5), 21, and 23 of the RPwD Act, 2016, notices dated 19.09.2023 were issued to the Respondents, directing them to submit their comments on affidavit within the statutory time limit.

## **3. Submissions made by the Respondent:**

3.1 The Administrative Officer responded on 17.10.2023, stating that reservations for PwD promotions apply only to specific posts, none of which are available within the organisation. Promotions are granted based on vacancy availability, and the Complainant has already been promoted to Assistant Engineer. The officer further noted that the Complainant's requests have been addressed in accordance with the relevant rules, and promotions cannot be granted outside these provisions.

3.2 Regarding the transfer, rules permit posting PwD employees near their hometowns to care for elderly parents. However, due to the location of company projects, accommodating the Complainant's transfer request was not feasible.

## **4. Submissions made in Rejoinder:**

4.1 The Complainant filed a rejoinder on 18.12.2023, stating that recent changes to disability-related rules impacted his case. He noted that during his second examination, a certificate reflecting 40% disability was accepted. He also submitted a representation based on new DoPT guidelines, which the department disputed as inapplicable.

4.2 The Complainant became eligible for the IOW post, with the next promotion in the hierarchy being Assistant Engineer, for which he met the eligibility criteria in 2001. Guidelines specify that if a person with a disability holds a post, it is considered "identified." Similarly, if a feeder grade post is identified, the promotion-grade post is also deemed identified. Despite these provisions, ALHW did not grant immunity from transfer or promotion, forcing the Complainant to relocate his personal and official belongings.

## **5. Legal Framework Letter Issued:**

5.1 A letter conveying the legal framework on the subject of transfer of employees with disabilities, including the constitutional and statutory provisions, pursuant instructions of the central government and important case laws, was issued on 29.01.2024.

## **6. Hearing:**

6.1 A hybrid (online/offline) hearing was conducted on **24.04.2025**. The following parties/representatives were present:

<b>S. No.</b>	<b>Name and Designation of On Behalf of the Attendees</b>	<b>Mode of Attendance</b>
1	None	Complainant Absent
2	Mr Ranjit Srivastava, Deputy Secretary, Ministry of Ports, Shipping and Waterways	Respondent No. 1 Online
3	Mr. Kuppuswamy- Administrative officer, ALHW	Respondent No. 2 Online

## **RECORD OF PROCEEDINGS**

7.1 At the outset, the Court noted the Complainant's absence and instructed the Respondent to present the facts and current status of the case. The Respondent clarified that the main grievance concerned the Complainant's transfer to Havelock under orders dated 31.08.2023. However, after considering his request, the Complainant was not transferred to Havelock, as verified by field officers.

7.2 The Respondent further addressed the Complainant's concern regarding promotion under the PwBD quota from Assistant Engineer to Executive Engineer. The Complainant became eligible for promotion in 2024, and his case was processed in accordance with standard procedure. With UPSC approval, he was promoted in February 2025,

though he retired on the same day. The Administrative Officer of ALHW confirmed that the promotion order was issued on 20.02.2025 and the transfer order on 26.09.2023. The Court directed that copies of both orders be placed on record.

7.3 The Respondent stated that both grievances had been addressed. While the Court acknowledged this resolution, it noted that neither party had informed the Court. The Court observed a discrepancy: although the transfer order was issued on 26.09.2023, the Respondent's reply in October 2023 denied the transfer. The Court instructed the Respondent to provide supporting documents confirming the reliefs granted.

7.4 The Court acknowledged the Respondent's statement that promotions depend on vacancy availability. Regarding the transfer, the Respondent reiterated that rules permit posting PwD employees near their native places to care for elderly parents. However, since most ALHW projects are in remote areas, accommodating the Complainant's request was not feasible.

7.5 The Court noted two unresolved issues: the Havelock transfer was not fully addressed, and no response had been submitted to the Court's letter dated 29.01.2024 referencing statutory protections under the Rights of Persons with Disabilities Act, 2016. The Respondent reiterated that the Complainant's grievances were resolved, as he was retained at his original posting.

7.6 The Court emphasised the Respondent's legal obligation to inform the Court and comply with its directives. Under Section 93 of the RPwD Act, 2016, failure to provide required information is a punishable offence. The Court asked the Respondent to explain why these legal risks were not considered, and directed submission of a written reply within one week, including all documentary evidence of reliefs and remedies provided to the Complainant. Failure to comply could result in the Court exercising its powers under Sections 77 and 93 of the RPwD Act, 2016. The Respondent was instructed to submit a written report within one week detailing the reliefs provided and status, to assist the Court in finalising the case.

## **8. Action Taken Report:**

8.1 In a letter dated 01.05.2025, the Administrative Officer stated that the Complainant was appointed as an Engineering Assistant in ALHW on 04.03.1987 under the UR category. He submitted disability certificates in 2004 (60%) and 2022 (64%). He was promoted to Inspector of Works (IOW) on 31.02.2003, a post later merged with Junior Engineer (Civil) by order dated 07.11.2007. He was subsequently promoted to Assistant Engineer (Civil), a Group 'B' Gazetted post, on 28.03.2013 under the UR category.

8.2 Regarding the transfer, his case was considered. Although he was transferred to Swarajdweep (Havelock Island) due to the absence of ALHW offices near his hometown, he was retained mainly at Port Blair for Naval Project works. His promotion process was expedited, and he was elevated to Executive Engineer on 28.02.2025 before retiring on superannuation on 28.02.2025. The Officer concluded that all grievances had been addressed in accordance with applicable rules and provisions.

## **9. Observations and Recommendations:**

9.1 Upon examining the case facts, submissions during the Court hearing, and the ATR filed by the Respondents on 01.05.2025, it is evident that the Complainant's grievances have been duly addressed. It was also noted that the Complainant was absent from the hearing and failed to respond to the notices, even through a written communication or an email.

9.2 After considering submissions from both parties, the Court determined that no further intervention is necessary. Consequently, the case is disposed of.

**(S. Govindaraj)**  
**Commissioner for Persons with Disabilities**