



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

5वाँ तल, एन.आई.एस.डी. भवन, जी-2, सेक्टर-10, द्वारका, नई दिल्ली-110075; दूरभाष : (011) 20892364

5th Floor, N.I.S.D. Bhawan, G-2, Sector-10, Dwarka, New Delhi-110075; Tel.: (011) 20892364

Email: ccpd@nic.in; Website: www.ccdisabilities.nic.in

Case No. 14398/1021/2023

Complainant(s):

Sh. Upender Kumar
R/o. H.No. 211, Ward No. 4,
Bhawani Nagar, Sirgitti, Bilaspur,
Chattishgarh - 495004

Respondent(s):

The Secretary,
Railway Board
Room No. 256-A,
Rail Bhavan, Raisina Road,
New Delhi-110001

Respondent No.1

The General Manager
South Central Railway
Bilaspur-495004

Respondent No.2

1. Gist of the Complaint

1.1 The Complainant, Shri Upender Kumar, is presently working as Office Superintendent under the Locomotor Disability quota in the office of the Principal Chief Operating Manager at Bilaspur. He has raised a grievance relating to promotion to the post of Chief Office Superintendent (Level-7).

1.2 The Complainant submitted that in the concerned office, there

are six sanctioned posts of Chief Office Superintendent, with one vacancy as on 01.04.2023. He claims that despite his representation (through e-Office) dated 23.01.2023, no response was received, and he was not granted promotion.

1.3 The Complainant alleged that, in the absence of an eligible candidate from the category for which the vacancy was reserved, the promotion ought not to have been offered to a general category employee in a manner that defeats the intent of reservation for PwBD, and sought promotion against the vacant post.

2. Issue of Notice

2.1 The matter was taken up with the Respondents vide notice dated 23.08.2023 issued by this Court.

3. Gist of the Reply

3.1 The Respondents, inter alia, submitted that the vacancy of Chief Office Superintendent (Level-7) in the Operations Department Headquarters, Bilaspur, is reserved for a Low Vision PwBD category as per the applicable instructions/rules.

3.2 It was further submitted that, despite efforts, no PwBD employee of the Low Vision category could be identified within the zone of consideration. The Complainant belongs to the orthopedically handicapped category and is stated to be 14th in seniority in Office Superintendent (Level-6); therefore, he was not considered against the said reserved vacancy.

3.3 The Respondents relied upon the procedure contemplated under the applicable guidelines for reserved vacancies in promotion, including:

- (a) Extension of the zone of consideration;
- (b) Carry forward where no suitable PwBD candidate is available; and
- (c) Interchange among PwBD categories in the subsequent year(s) as per the instructions, and only thereafter (if still unfilled),

possible filling by a non-PwBD candidate with carry forward as prescribed.

4. Gist of the Rejoinder / Further Submissions

4.1 The Complainant filed a rejoinder dated 06.09.2023 and further communications, including an email dated 20.10.2023 raising additional grievance(s), including alleged discrimination in changing section.

5. Hearing

5.1 A hearing in hybrid mode was conducted on **08.04.2025**, wherein the following parties/representatives were present:

Sl.No.	Name of the parties /Representatives	For Complainant/ Respondent	Mode of Attendance
1.	Sh. Upender Kumar	Complainant	Online
2.	Sh. R. Shankaran, Sr. Personnel Officer	Respondent No. 2	Online

6. Record of Proceedings:

6.1 The submissions made during the hearing broadly reiterated the respective stands of the parties regarding the Complainant's request for promotion against the vacant post stated to be reserved for a specified PwBD category.

7. Observations

7.1 The central issue for determination is whether the Complainant can be granted promotion against a vacancy stated to be reserved for the Low Vision PwBD category, and whether the Respondents have followed the prescribed process for dealing with reserved vacancies in promotion when no eligible candidate of the concerned category is available.

7.2 From the material on record, it emerges that:

- (a) The Respondents have treated the vacancy as reserved for Low Vision category and stated that no eligible candidate of that category was available; and

(b) The Respondents have also relied upon the prescribed mechanism of carry forward / interchange among PwBD categories as per the applicable instructions.

7.3 At the same time, this Court notes that the Complainant has been repeatedly raising the grievance and alleges non-response and discriminatory treatment. In matters of reservation in promotion for PwBD, strict adherence to the prescribed roster and procedure, coupled with transparent communication through a reasoned speaking order to the aggrieved employee, is essential to avoid arbitrariness and to uphold the purpose of the enabling framework.

8. Recommendations

8.1 The Respondents are recommended to examine the Complainant's grievance and pass a reasoned speaking order with reference to the applicable Railway Board/DoPT instructions relied upon by them covering, inter alia:

(a) The roster position and basis for treating the vacancy as reserved for Low Vision PwBD category;

(b) The steps taken to identify eligible Low Vision PwBD candidates, including extension of zone of consideration (where applicable);

(c) The proposed action under the mechanism of carry forward and interchange among PwBD categories for the vacancy, including timelines; and

(d) Whether and when the Complainant's candidature would arise for consideration either on merit/seniority in the general line or under PwBD category interchange, if and when permissible as per rules.

8.2 The above speaking order shall be issued and communicated to the Complainant within 30 days from receipt of this Order, along with copies of the relevant roster extract/office noting to the extent permissible under rules.

8.3 If, upon such examination, the vacancy becomes available for interchange to another PwBD category in accordance with the prescribed instructions, the Respondents shall consider eligible

candidates of the interchanged category strictly as per the applicable procedure and seniority/eligibility conditions. An Action Taken Report shall be filed to this Court within 90 days.

8.4 In terms of Section 76 of the Rights of Persons with Disabilities Act, 2016, if the above recommendations/directions are not accepted, the Respondents shall furnish a reasoned reply for non-acceptance to this Court within the same timeframe. Failure to do so may compel this Court to contemplate penal and other action as per sections 78, 89, and 93 of the Act.

9. Accordingly, the case is disposed of in these terms.

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