



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/14480/1021/2023

In the matter of:

Shri Nishant Jha

...Complainant

Versus

1. The Secretary, Railway Board

2. The Divisional Railway Manager, Katihar

...Respondents

1. Gist of the complaint

1.1 The present complaint was filed by Shri Nishant Jha, a person with benchmark disability with 40% locomotor disability, who is serving in the Railways as Station Master. The Complainant stated that though he had been appointed and was working in the Station Master cadre, he was being denied promotion to the next higher post on the ground that no quota was earmarked for persons with benchmark disabilities in the category of Station Master. He relied upon the provisions of the Rights of Persons with Disabilities Act, 2016, the DoPT O.M. dated 17.05.2022, the DEPwD notification dated 04.01.2021, and Railway Board instructions concerning reservation in promotion.

1.2 The grievance of the Complainant, in substance, is that the Respondents have wrongly denied him consideration for promotion in the unified Station Master cadre by relying upon a circular meant for open market recruitment, despite his already serving in that cadre and despite the statutory protection against discrimination on the ground of disability.

2. Issue of notice

2.1 Upon receipt of the complaint, this Court took cognizance of the matter and issued notice dated 19.09.2023 under Sections 75 and 77 of the Rights of Persons with Disabilities Act, 2016, calling upon the Respondents to file comments on affidavit together with relevant documents. In the said notice, this Court specifically referred to Section 3 of the Act and also called for action taken in compliance with Sections 21 and 23 of the Act. The Respondents were further advised to respond keeping in view, inter alia, Sections 20 and 34 of the Act read with DoPT O.M. dated 17.05.2022.

3. Reply of the Respondents

3.1 In reply, the Respondents took the stand that the grievance raised by the Complainant could not be accepted in view of the Railway Board circular dated 27.02.2019, on the basis of which it was stated that there was no provision of quota earmarked for persons with benchmark disabilities in the category of Station Master. The record also shows that the matter was examined by Railway authorities and the case was forwarded by Railway Board to the Northeast Frontier Railway for necessary action as per extant rules.

3.2 During the hearing also, the Respondents submitted that the post of Station Master is a safety category post and sought time to re-examine the Complainant's service position, promotion rules, and the relevant instructions.

4. Rejoinder of the Complainant

4.1 In rejoinder and subsequent additional submissions, the Complainant reiterated that the Railway Board circular dated 27.02.2019 was issued in the context of recruitment from open market and could not be used to deny internal promotion. He also relied upon the DEPwD notification dated 04.01.2021, particularly the note that if a post is already held by a person with benchmark disability, it shall be deemed to have been identified for that category of benchmark disability. The Complainant further referred to the unified cadre structure of Station Master/Assistant Station Master, Yard Master and Traffic Inspector, and maintained that his case ought to be considered accordingly.

5. Hearing

5.1 The matter was heard in hybrid mode on **23.04.2025**, wherein the following appeared:

S. No.	Name and designation of the Attendees	On behalf of	Mode of Attendance

1.	Mr. Nishant Jha	Complainant	Online
2.	Mr. A.P Shrivastava- SR DPO- Kathihar	Respondent	Online

6. Proceedings During the Hearing

6.1 During the hearing, the Complainant submitted that he had been appointed as Station Master under the disability quota and was seeking promotion from Level-6 to the promotional post in Level-7 within the unified cadre. He contended that the circular of 27.02.2019 related to open market recruitment and not internal promotion, and that he could not be denied promotion merely on the ground of disability.

6.2 The Respondents submitted that the post of Station Master is a safety category post and sought time to re-examine the relevant records, circulars and service rules. The hearing record shows that the controversy centered around the suitability/identification of the promotional post, the unified cadre structure, and the legal effect of the applicable circulars and notifications.

7. Observations

7.1 Having considered the complaint, the reply, the rejoinder and the hearing record, this Court finds that the grievance of the Complainant substantially concerns denial of promotion in service. The issue raised is intertwined with service rules, promotional eligibility, identified/suitable posts, cadre structure and the application of departmental circulars.

7.2 The record shows that the Complainant has relied upon Section 20(3) of the RPwD Act, 2016, the DoPT O.M. dated 17.05.2022, the DEPwD notification dated 04.01.2021, and Railway instructions on reservation in promotion. The Respondents, on the other hand, have relied upon the Railway Board circular dated 27.02.2019 and the plea that the post is a safety category post.

7.3 Section 20 (3) of the RPwD Act provides as under:

“(3) No promotion shall be denied to a person merely on the ground of disability.”

7.4 Further the Gazette Notification dated 04.01.2021 issued by the Deptt of Empowerment of Persons with Disabilities, Ministry of Social Justice and Empowerment, Government of India, in pursuance of Section 33 of the RPwD Act, at Note 4 of the Gist of Recommendations of the Expert Committee provides as under:

“Note 4: If a post is identified in the feeder grade, all the posts in the promotional grade should also stand identified.”

7.5 The aforesaid provisions establishes beyond doubt that the grievance of the Complainant is genuine and the relief sought by him has statutory support.

8. Recommendations

8.1 In the facts and circumstances of the case, the Respondents are recommended to re-examine the grievance of the Complainant with an open mind by passing a **reasoned and speaking order** through the competent authority, within **90 days** from receipt of this Order, dealing specifically with the following:

- (a) The Complainant's claim for consideration for promotion within the relevant unified cadre;
- (b) The validity of the Railway Board circular dated 27.02.2019 and its application with respect to direct recruitment and promotion within the establishment;
- (c) The Respondents' specific stand on suitability/identification of the promotional post and the legal basis for any denial of promotion to the Complainant.

8.2 In terms of Section 76 of the Rights of Persons with Disabilities Act, 2016, the Respondents shall inform this Court of the action taken on the above recommendations, and in case of non-acceptance, shall furnish reasons therefor within the stipulated period.

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

(S.Govindaraj)
Commissioner for Persons with Disabilities