



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/13837/1014/2023

In the matter of:

Shri Arslan Ahmad

... Complainant

Versus

The chairman,

Staff Selection Commission, New Delhi **... Respondent No. 1**

The Regional Director,

Staff Selection Commission (er), Kolka **...Respondent No.2**

1. Gist of the Complaint:

1.1. The Complainant, Mr. Arslan Ahmad, a person with 40% Locomotor Disability, filed a complaint dated 01.02.2023, in this Court regarding his being declared ineligible by the Staff Selection Commission for the post of Junior Geographical Assistant (Post Code-ER 12221, NATMO) by misinterpreting the disability certificate at the clerical level only, without conducting a medical examination.

1.2. The Complainant stated that an examination was conducted for the recruitment of SSC Selection Phase-IX advertised by the Staff Selection Commission. After the examination, the Staff Selection Commission (Eastern Region), Kolkata requested to send photocopies of all documents through post for preliminary inspection. After a few months, the result of the inspection was released in which the complainant was declared ineligible stating that "PWD

category (BLA) is not identified suitable for this post. Candidate's age beyond eligible limit as candidate treated as UR only."

1.3. The Complainant is a completely disabled individual in terms of motor skills and does not come from BLA with functional limbs. The Complainant meets all the requirements for the role, such as standing, sitting, walking, reading/writing, seeing, hearing, communicating and using fingers, so for the role, the Complainant has applied to be considered for inclusion in the non-motor activity stages.

2. Notice issued to the Respondents:

A notice dated 13.03.2023 was issued by this Court under Sections 75 and 77 of the Rights of Persons with Disabilities Act, 2016(hereinafter referred to as "the RPWD Act"), directing the Respondents to furnish their comments on the complaint and place on record supporting documents and justifications, if any.

3. Reply filed by the Respondent:

3.1. The Recruitment Commission (Headquarters) informed that on 04.05.2023, it was stated along with the fact that the disabilities of the applicants are specified as Distal Muscular Dystrophy in both upper limbs and lower limbs, which makes them unsuitable for the Junior Technical Assistant position. It was also mentioned that the user department – NATMO informed through its letter dated 17.04.2023 that the post is only suitable for the disabilities mentioned below:

- (a) physical disability;
- (b) mental disability;
- (c) mobility disability (one leg, two legs, chronic illness, dwarfism, affected by acid burn); and
- (d) impairment (deformities),

Thus, the disability of paraplegia does not fall under the desired disability categories.

4. Rejoinder filed by the Complainant:

4.1 The respondent did not file any rejoinder in response to the claim.

5. Hearing (1):

5.1 A hearing was scheduled on **28.01.2025** in hybrid mode, wherein the following parties/representatives were present during the hearing:

Sl.	Name & Designation of the	For	Mode of
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No.	Parties/Representatives	Complainant/Respondent	Attendance
1.	NA	None for Complainant	NA
2.	Mr. Ram Sagar, Under Secretary, SSC (HO), New Delhi	Respondent No. 1	Online
3.	Mr. Avijit Pal, Dy. Director, SSC (ER), Kolkata	Respondent No. 2	Online

6. Record of Proceedings (i):

6.1. The Complainant did not attend the hearing. After waiting for fifteen minutes, it was decided to give a last opportunity to the Complainant to appear before the Court. The case was scheduled for a hearing on 11.02.2025.

7. Hearing (ii):

7.1 A hearing was scheduled on **11.02.2025** in hybrid mode, wherein the following parties/representatives were present:

Sl. No.	Name & Designation of the Parties/Representatives	For Complainant/Respondent	Mode of Attendance
1.	Mr. Arslan Ahmad	Complainant	Online
2.	Mr. Ram Sagar, Under Secretary, SSC (HO), New Delhi	Respondent No. 1	Online
3.	Mr. Avijit Pal, Dy. Director, SSC (ER), Kolkata	Respondent No. 2	Online

8. Record of Proceedings (II):

8.1 During the hearing, the Complainant submitted that he had filed this case two years back regarding rejection of his candidature on the grounds of the disability certificate, wherein it has been written that he has disability in both arms and both legs. In his complaint, he had submitted to this court that a clerk disqualified him on the basis of whatever is mentioned in his disability certificate. It would have been fair if his disability had been checked by a medical doctor, and his candidature had been decided accordingly. He showed both hands to the Court and reiterated that, although they are affected by a disability, he can write and operate computers with them.

8.2 In a reply to a question, the Complainant further submitted that since he

was not eligible due to his disability, he was considered under the Unreserved Category, where he could not be selected due to the age bar.

8.3 The representative appearing from SSC (HO) submitted that the post of Junior Geographical Assistant was earmarked and reserved for VI, HI, LD [OL, BL, LC, Dw, AAV, and Others (ASD)]. According to the Disability Certificate of the Complainant, he has disability in both the Upper Limbs and Lower Limbs, for which the post mentioned above was not suitable. Hence, his candidature was rejected under the PwBD quota. The representative further submitted that he was considered under the Unreserved category, but due to the age bar, he could not be selected.

8.4 The representative appearing from SSC (ER) relied upon the submissions made by the representative from SSC (HO).

8.5 After hearing the parties, it was observed that the respondents were not clear about the instruction issued by the Judgement passed by the Hon'ble Supreme Court regarding the selection of a candidate with benchmark disability on his functional abilities. As per Note: 8 of the Notification dated 04.01.2021 issued by the Department of Empowerment of Persons with Disabilities, Ministry of Social Justice & Empowerment, "It is for the Central Ministries or Departments or Public Sector Undertakings or Autonomous Bodies to verify the authenticity of the certificate of disability and examine suitability of the candidate in terms of functional requirements before appointment against any identified post.

8.6 Further, both parties are completely unaware of the concept of age relaxation for PwBD, which is also available against an UR vacancy. This was clearly mentioned in Para 21.2 of the DoPT OM No. 36035/3/2004- Estt (Res) dated 29.12.2005 and later reiterated in OM No. 15012/1/2003-Estt. (D) dated 29.06.2015.

8.7 The Court directed the Respondent to submit in writing effective reasons for rejection of the candidature of the Complainant under the PwBD or the UR quota, as the case may be, within a week from the date of issue of this Record of Proceedings, with a copy to the Complainant, who shall submit his rejoinder within a further period of 3 days. The next hearing in this matter is scheduled to be heard on 17.06.2025.

9. Hearing (iii):

9.1 A hearing was conducted on **17.06.2025** in hybrid mode, wherein the following parties/representatives were present :

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Sl. No.	Name & Designation of the Parties/Representatives	For Complainant/Respondent	Mode of Attendance
1.	Mr. Arslan Ahmad	Complainant	Online
2.	Mr. Devender Singh and Mr. Tushar, Section Officers	Respondent No. 1	Online
3.	Raju Chowdhury, Deputy Director, Staff Selection Commission (ER)	Respondent No. 2	Online

10. Record of Proceedings (iii):

10.1. The Court commenced the proceedings by summarising the gist of the previous hearing, wherein it was noted that the Respondent was not aware of the age relaxation available to the complainant. It was further observed that the respondent had not undertaken any assessment of the physical suitability of the complainant for the concerned post. The complainant maintained that he is physically fit for the post, while the respondent contended that the marks scored by the complainant were below the cut-off for the Unreserved (UR) category, and additionally, the post had been identified as unsuitable for the complainant's disability.

10.2. The Court drew the respondent's attention to Note 2 and Note 8 of the Department of Empowerment of Persons with Disabilities (DEPwD) recommendations dated 04.01.2021. While Note 2 states that the establishments can add to the list of identified jobs, Note 8 provides that the respondent can verify the authenticity of the disability certificate based on functional requirements. In light of this, the Court asked the respondent whether a doctor had examined whether the complainant, Mr. Arslan Ahmad, was in fact suitable for the post. The Court emphasised that Persons with Benchmark Locomotor Disabilities (BLA) are not a homogeneous group, as they possess varying capacities and capabilities, and thus cannot be treated alike.

10.3. The respondent submitted that the recruitment was conducted strictly in accordance with the advertisement. It was argued that many candidates with BLA might have refrained from applying, presuming the post to be unsuitable for them, and therefore, allowing a last-minute advantage to a BLA candidate who had applied would be unfair and unjust. Regarding Note 8, the respondent further submitted that, in their interpretation, the duty of the Staff Selection Commission (SSC) was limited to verifying the authenticity of the disability certificate in order to prevent non-PwD candidates from taking undue advantage.

10.4. The Court, in response, observed that treating all categories under BLA as identical was inappropriate and unfair. It stated that in such circumstances, the burden of proof lies not upon the candidate but upon the department. This Court reiterated that Note 8 imposes a dual duty upon the department: to both verify the authenticity of the certificate and examine the functional suitability of the candidate for the post. The respondent, however, submitted that since the advertisement was issued for more than 200–300 posts, it would not have been feasible to examine suitability for each post individually.

10.5. Rejecting this contention, the Court once again emphasised the importance of examining the functional suitability of candidates for the post. It also referred to recent Supreme Court judgments, which stressed the significance of functional justification in cases of ambiguity. The respondent then proposed issuing advisories and conducting inspections to correct such errors, thereby reducing vagueness and aligning Recruitment Rules (RRs) in a manner that maximises benefits for PwD candidates. The respondent further submitted that another reason for the rejection of the complainant's candidature was his low score, which fell below both the UR and PwD cut-offs.

10.6. The Court then asked the complainant, considering that his score was below the prescribed cut-off, what grievance he sought to press. The complainant conceded this point and clarified that his grievance was confined only to the policy issue of suitability.

10.7. The Court observed that with respect to suitability, the duty of the Selection Commission cannot be confined merely to checking the disability certificate. Rather, the duty extends to assessing the overall physical suitability and functional ability of the candidate for the post, as this would broaden opportunities for PwD candidates. The department's responsibility is twofold: to prevent ineligible and fraudulent claims, while also ensuring that eligible PwD candidates are included. The first step in this direction, the Court stressed, is issuing clear and unambiguous advertisements to avoid confusion.

10.8. Finally, the Court observed that since the complainant's score was below the cut-off, the question of his eligibility did not arise. However, it recommended that the department consider making suitable alterations or amendments to the identification of posts for PwD candidates in order to enhance clarity.

11. Observations/ Recommendations:

11.1 The court observes that the grievance of the complainant related to his candidature does not arise as his marks are below the cut-off for both UR and

PWD candidates.

11.2 In the context of the suitability issue, the court recommends that the department consider making appropriate alterations or amendments in the identification of posts for PwD candidates in order to enhance clarity. In a catena of judgments, the Hon'ble Supreme Court has stated that while evaluating whether or not a candidate can pursue a particular career path, the sole focus has to be the candidate's functional competence to pursue the same. In ***Omkar Ramchandra Gond v. UOI 2024 SCC OnLine SC 2860***, the Hon'ble SC clarified that the mere existence of a benchmark disability is not sufficient to disentitle a candidate from pursuing the MBBS course, what needs to be seen is whether the candidate can, with reasonable accommodations, perform the role in question. This principle of reasonable accommodation has to be given full play. The same principle was reiterated in the case of ***OM Rathod v. DGHS and Ors.2024 SCC OnLine SC 3130***.

11.3 The rigid insistence on particular functional classification, while eschewing an actual evaluation of the candidate, is legally unsustainable.

11.4 In light of the above, the matter is disposed of.

(S.Govindraj)
Commissioner for Persons with Disabilities