



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. 14237/1021/2023

Shri Dilip Prasad

...Complainant

Versus

- (1) The Commissioner of Customs Custom House, Willingdon Island Cochin
- (2) Liason Officer for PwD
O/o the Commissioner of Customs,
Custom House, Willingdon Island
- (3) O/o the Chief Commissioner of Central Tax Central Excise and Customs
C R Building, I.S. Press Road Cochin

...Respondents

1. Gist of the Complaint:

1.1 Shri Dilip Prasad, a person with 90% locomotor disability filed a complaint dated 18.06.2023 and submitted that he joined Cochin Customs as a Tax Assistant (TA) on 18.04.2016. Seniority list was issued by Cochin Customs vide letter dated 29.12.2017 wherein he was placed at serial no 10.

1.2 The Departmental Promotion Committee for the promotion to the grade of Senior Tax Assistant (STA)/Executive Assistant (EA) was conducted in March 2018 as per the Recruitment Rule (RR) of STAs. Accordingly, a promotion order of 15 Tax Assistant was issued to the grade of STAs/EAs on 01.04.2018. In this order of promotion, 11 tax assistants who were juniors to him, were also promoted to the grade STAs/EAs whereas neither they have completed 3 years of service in the grade of Tax Assistant on 01.04.2018 nor applying the senior-junior clauses as per the extant recruitment rules.

1.3 He has yet not been granted a promotion in the grade of STAs/EAs even after completing his probation on 18.04.2018 and passing the Departmental Examination for Promotion to STAs/EAs/Inspectors in 2017, which incurred me an irreparable loss of salary and seniority in the further promotion.

2. Notice sent to the Respondents

2.1 A Notice dated 28.06.2023 was issued to the above mentioned respondents for forwarding to this Court comments on affidavit on the complaint for violation of sections 20 and 34 of the Act read with DoPT OM No. 36012/11/2020 - Estt. (Res-II) dated 17.05.2022 within the statutory time limit.

3. Reply filed by the Respondents:

3.1 The Office of the Commissioner of Customs, Cochin, submitted a detailed reply dated 02.08.2023 in response to the complaint filed by Shri Dilip Prasad, a person with 90% locomotor disability, regarding denial of reservation in promotion. Shri Dilip Prasad was appointed as a Tax Assistant under the OBC-OH category through SSC CGLE-2014 and joined on 18.04.2016. He was confirmed in service on 18.04.2018. According to the 2015 Recruitment Rules (RRs), Tax Assistants with ten years of regular service and who have passed the departmental exam are eligible for promotion to Executive Assistant (EA).

3.2 A DPC was held on 02.01.2018 to fill 20 vacancies in the EA grade. 17 officers, including juniors to Shri Dilip Prasad, were promoted. However, his name was not empaneled because he had not completed his probation as of the crucial date (01.04.2018). Later, the CBIC clarified that earlier instructions (dated 23.02.2017 & 26.04.2017) regarding DPCs were unauthorized, and in July 2019, all zones were asked to conduct Review DPCs. This directive was challenged in CAT, and the matter is now pending before the Principal Bench, CAT, New Delhi.

3.3 In December 2022, the CBIC issued a One-Time Relaxation (OTR) in the RRs for EA promotions. Under this OTR, Tax Assistants with six years of regular service as of 01.01.2022 may be promoted. If a junior with six years' service is promoted, then seniors with at least four years' service must also be considered under the junior-senior clause. In Shri Dilip Prasad's case, he had only four years of service as of 01.01.2022, and no junior had completed six years. Therefore, his case was not eligible under the OTR provisions.

4. Rejoinder filed by the Complainant:

4.1 The Complainant filed a rejoinder dated 28.08.2023 and stated that the respondent failed to provide a copy of their reply and supporting documents, violating transparency and fairness.

4.2 He pointed out that the CBIC letters cited by the Respondent were either irrelevant, selectively quoted, or not furnished in full—particularly the letters from 2017 used to justify DPCs that promoted 19 Tax Assistants, including 10 juniors to him. Shri Prasad contended that these promotions were granted despite CBIC's later clarification in 2018 and 2019 that such instructions were unauthorized. He highlighted his eligibility for promotion from 01.01.2019 under the same Recruitment Rules used to promote others in 2017 and 2018, and argued that his exclusion—while ineligible juniors like Shri Aneesh P Mathew were promoted—was biased and arbitrary.

4.3 He also criticized the Respondent for ignoring key CBIC instructions issued between July and December 2017, which required promotions to be made under revised rules following the merger of STA and DOS posts into Executive Assistant. He asserted that the One Time Relaxation (OTR) issued in 2022 was not applicable to his case since he was already eligible under standard rules. He further raised concerns about irregularities in promotional quotas and the lack of a valid Liaison Officer for PwBDs in the office. Shri Prasad requested this Court for his promotion with retrospective effect from 01.01.2019, along with seniority and pay benefits, and to ensure a time-bound resolution to uphold fairness and justice.

5. Hearing:

5.1 A Hearing was conducted on **10.07.2025** in hybrid mode. The following parties/representatives were present:

Sl. No.	Name and Designation of the Attendees	On Behalf of	Mode of Attendance
1.	Shri Dilip Kumar	Complainant	Online
2.	Shri Murlidhar- Joint Commissioner- Customs House	Respondent	Online

6. Record of Proceedings:

6.1 The Complainant explained that he had grievances regarding denial of

promotion following the 2018 Departmental Promotion Committee (DPC), stating that certain juniors were promoted despite recruitment rule changes and eligibility concerns.

6.2 The Respondent, represented by the Joint Commissioner, Cochin Custom House, submitted that the 2018 DPC pertained to earlier vacancy years governed by previous recruitment rules and clarified that related issues, including review DPC matters, are currently pending before the Central Administrative Tribunal (CAT), Principal Bench, New Delhi. Upon confirmation from both sides that the subject matter is sub judice before CAT, the Court observed that parallel inquiry would not be appropriate.

7. Observations and Recommendations:

7.1 The Court observes that the Complainant is a person with benchmark disability and, therefore, is entitled to statutory protection under the Rights of Persons with Disabilities Act, 2016, particularly Sections 20 and 34, which mandate non-discrimination in employment, equal opportunity in career progression, and proper implementation of reservation policies for persons with disabilities. The Act casts a positive obligation on government establishments to ensure that employees with disabilities are treated fairly, provided reasonable accommodation wherever required, and considered equitably in matters relating to promotion, seniority, and service benefits.

7.2 The Court further notes from the submissions of the parties that instant issue relating to the promotion process and review Departmental Promotion Committee (DPC) are presently sub judice before the Hon'ble Central Administrative Tribunal (CAT). In view of the settled legal principle of judicial propriety, it would not be appropriate for this Court to adjudicate upon matters that are already under consideration before a competent judicial forum, as parallel findings may result in conflicting decisions.

7.3 The Respondent department is advised to ensure strict compliance with the provisions of the RPwD Act, 2016, including implementation of equal opportunity policies, maintenance of reservation rosters for persons with benchmark disabilities, and adherence to the principles of non-discrimination in all service matters including promotion, postings, and career advancement.

7.4 The Department should ensure that the designated Liaison Officer for Persons with Benchmark Disabilities effectively monitors the implementation of

disability reservation policies, accessibility measures, and grievance redressal mechanisms, so that any concerns of employees with disabilities are addressed promptly and in accordance with statutory requirements.

7.5 The Respondents are further advised to maintain transparency and fairness in promotion processes by clearly communicating eligibility criteria, applicable recruitment rules, roster positions, and reasons for non-selection wherever required, so as to uphold the principles of natural justice and prevent any perception of discrimination on the ground of disability.

7.6 Since the instant matter is sub-judice, therefore, no further intervention is warranted.

8. Accordingly, the case is disposed of.

(S. Govindaraj)

Commissioner for Persons with Disabilities