



## 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/13835/1024/2023**

**In the matter of —**

Shri N. Sivakumar

**...Complainant**

**Versus**

(1) The General Manager,  
Southern railway,  
Chennai

(2) The Dy. Chief Engineer,  
Engineering Workshops,  
Southern Railway.

**...Respondents**

### **1. Gist of the Complaint:**

1.1 Shri N. Sivakumar with 55% locomotor disability (post polio residual paralysis in Right upper limb hand) filed a complaint dated 28.01.2023 regarding regularizing his services from 29.07.2008 as in the case of 2008 select list and to order for the further promotions at par with others on the due dates with arrears upto 16.01.2017.

1.2 The Complainant stated that he completed his Apprentice Course as a Turner at the Southern Railway Engineering Workshop in 2003–2004 and was called for selection as Substitute Helper Grade II on 29.07.2008. He appeared before the selection committee for document verification and a simple physical endurance test. However, he was rejected in the

endurance test involving lifting 35 kg, despite being a person with disability who should not have been subjected to such a test, and his name was included in the ineligible candidates' list.

1.3 He further submitted that other similarly placed physically challenged apprentices were selected under the disability quota and appointed as Substitute Helpers, while his case remained unresolved despite repeated representations. Ultimately, he was appointed only in 2017 following the Hon'ble High Court's order dated 25.04.2016. He contends that he unjustly lost more than eight years of service benefits (29.07.2008 to 16.01.2017), despite being eligible for selection in 2008, resulting in a significant setback to his career.

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

2.1 A notice dated 13.03.2023 was issued to the above mentioned Respondents for forwarding to this Court comments on affidavit within the statutory time limit.

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

3.1 The Respondents have filed their reply dated 27.05.2023 and submitted that the Complainant was engaged as a "Substitute" on 17.01.2017 solely in compliance with the directions of the Hon'ble High Court of Madras. They clarified that his services have not yet been regularized and are governed by Master Circular No. 20, which defines a "Substitute" as a person engaged temporarily against vacant posts due to the absence of regular staff. As per the circular, substitutes are granted temporary status after four months and are regularized only upon successful screening and empanelment. Until then, they are not entitled to benefits such as seniority, promotion, or gratuity, and their services may be terminated at any time when regular candidates become available.

3.2 The Respondent also stated that an SLP is pending before the Hon'ble Supreme Court regarding the engagement of Act Apprentices as "Substitutes," which is under judicial consideration. Additionally, they noted that the Complainant was found medically fit only in the lower C-1 category under the PwD quota at the time of his engagement in 2017. They argued that engagement as a Substitute is not equivalent to open

recruitment but a temporary arrangement based on administrative needs. The Respondent therefore requested the Commission to close the complaint.

#### **4. Rejoinder by the Complainant:**

4.1 The Complainant filed rejoinder dated 04.07.2023 and reiterated his complaint inter-alia submitted that there is no bar in the appointment, since, the Hon'ble High Court, already observed that he had completed the apprenticeship course successfully and to be considered for any other appropriate post, which will not involve physical endurance test (The way in which the two similarly placed Physically Disabled Persons were absorbed in two other posts of Railway in 2008.

#### **5. Hearing:**

5.1 A hearing in hybrid mode was conducted on 11.02.2025. The following parties/representatives were present during the hearing:

| <b>Sl.No.</b> | <b>Name of the parties/Representatives</b> | <b>For Complainant/ Respondent</b> | <b>Mode of Attendance</b> |
|---------------|--------------------------------------------|------------------------------------|---------------------------|
| 1.            | Sh. Agastas Babu                           | For Complainant                    | Online                    |
| 2.            | Sh. Marimuthu                              | Respondent                         | Online                    |
| 3.            | Sh. M Ganesh Dy.<br>CE/ES/AJJ              | Respondent                         | Online                    |

#### **6. Record of Proceedings:**

6.1 The Court observed that neither the Complainant nor Respondent was present during the hearing. The Complainant's representative failed to produce an authorization letter, and due to the Complainant's absence, Respondent No.2 had to log in multiple times, causing inconvenience and loss of time to both the Respondent and the Court.

6 . 2 Respondent No.2 submitted that the Complainant had participated in the selection process for a substitute post but was not selected, following which his case was dismissed by the CAT. He later

approached the High Court of Chennai, which directed the Railways to appoint him as a substitute. Accordingly, he has been working in the engineering workshop since 2017. It was clarified that his post is non-regularizable, and with an SLP pending before the Hon'ble Supreme Court, no decision on regularisation or service benefits—other than annual increments—can be considered at present.

6.3 The Court noted the absence of any documentary evidence regarding the Complainant's SLP and found his prayer unclear. Both parties were directed to file detailed written submissions within one week to support their claims. The Court further instructed that both parties must remain present during the next hearing, the date and time of which will be communicated separately.

## **7. Hearing:**

7.1 A hearing in hybrid mode was conducted on 11.12.2025, wherein the following parties/representatives were present:

| <b>S. No.</b> | <b>Name and Designation of the Attendees</b> | <b>Complainant/Respondent</b> | <b>Mode of Attendance</b> |
|---------------|----------------------------------------------|-------------------------------|---------------------------|
| 1.            | Shri Sivakumar                               | Complainant                   | Online                    |
| 2.            | Shri M. Ganesh, Dy.<br>CE/EWS                | Respondent                    | Online                    |

## **8. Record of Proceedings:**

8.1 The Complainant submitted that no further development had taken place since the last hearing and that the Railway Administration had not extended the benefits sought by him. He contended that his appointment was made pursuant to the orders of the Hon'ble High Court and that he ought to be treated on par with similarly situated persons with disabilities, namely Shri Saravanan and Shri Kumar, who had been appointed and granted consequential service benefits. According to the Complainant, the condition in his appointment order making it subject to the outcome of the pending SLP before the Hon'ble Supreme Court amounted to discrimination.

8.2 The Respondent, represented by Shri M. Ganesh, Dy. CE/EWS, Southern Railway, submitted that the Complainant was not selected in the original recruitment process conducted in 2008 and was subsequently appointed as a substitute employee only in compliance with the directions of the Hon'ble High Court. It was further submitted that the complainant's appointment order specifically stipulated that his engagement would remain subject to the outcome of the SLP pending before the Hon'ble Supreme Court since 2013. The respondent also clarified that the cases of Shri Saravanan and Shri Kumar were distinguishable, as they had been selected through the regular screening process and appointed prior to the filing of the SLP.

8.3 Upon hearing both parties, the Court noted that the Railway Administration had complied with the directions of the Hon'ble High Court by appointing the complainant as a substitute employee. The Court further observed that the issue of regularization and grant of consequential service benefits is intrinsically linked to the outcome of the pending SLP before the Hon'ble Supreme Court. In view of the pendency of the matter before the Apex Court and the submissions made by the respondent, the Court was of the view that no further intervention was warranted at this stage and that the parties would be required to await the final decision of the Hon'ble Supreme Court.

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

9 . 1 It is observed that the complainant's grievance regarding regularization of service and grant of consequential benefits is directly connected with the issues involved in the Special Leave Petition (SLP) pending before the Hon'ble Supreme Court. The respondent has submitted that the complainant was appointed as a substitute employee pursuant to the directions of the Hon'ble High Court and that his appointment was made subject to the outcome of the said SLP.

9.2 The Court notes that the Railway Administration has complied with the directions of the Hon'ble High Court by providing appointment to the complainant. The question of regularization and grant of further service benefits has not attained finality and is dependent upon the adjudication of the pending SLP before the Hon'ble Supreme Court.

9.3 In view of the pendency of the matter before the Hon'ble Supreme

Court, this Court is of the considered view that no further intervention is necessary at this stage. The respondent shall take consequential action, if any, in accordance with the final judgment of the Hon'ble Supreme Court.

10. Accordingly, the case is disposed of

**(S. Govindaraj)**

Commissioner for Persons with Disabilities