



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/13989/1021/2023
In the matter of —

Sh. Nitesh Gupta

...Complainant

Versus

The General Manager,
 Northern Railway

... Respondent No.1

The Divisional Railway Manager
 Northern Railway,
 DRN Office Moradabad

... Respondent No.2

1. Gist of the Case:

1.1 Sh. Nitesh Kumar, a person with 100% visual impairment filed a Complaint dated 25.03.2023 regarding deprivation in promotion.

1.2 The Complainant is working as a Khalasi (Level 1) under the office of Senior Section Engineer (Works) in Northern Railway, Hapur since 02.01.2017. The Complainant stated that disabled employees in the Engineering Department are being deprived of promotion to the posts of Level-2 LDC (Lower Division Clerk) and Level-2 Technician.

1.3 As per the Northern Railway Circular No. 70/2006, reservation in promotion is already applicable. In his office, promotions from Level-1 to Level-2 were given to employees on the post of Technician in 2017, and thereafter, these employees are being promoted every two years.

However, the employees with disabilities have not been given any promotion to date. As per Railway Board Circular No. 80/2006, reservation in promotion for disabled persons has been in place since January 1996.

2. Notice issued to the Respondents:

2.1 A notice dated 26.04.2023 was issued to the above mentioned respondents for forwarding to this Court comments on affidavit for violation of section 20(3) of the RPwD Act and DoPT OM No.36012/1/2020-Estt (Res.-II), dated 17.5.2022 and No.36035/02/2017-Estt (Res) dated 15.01.2018 within the statutory time limit.

3. Reply filed by the Respondents:

3.1 The Respondent No.2 vide letter dated 25.05.2023 stated that the post of Technician (Mason) requires B-1 medical fitness as per Railway Board guidelines. Since, Mr. Gupta has 100 % visual disability, therefore, he was not found medically eligible for the position and thus his application was rejected.

3.2 Furthermore, the eligibility criteria for LDCE (Limited Departmental Competitive Examination) are set by the Personnel Department and the Railway Board, not by the local authorities. Promotions are carried out under the instructions of the Divisional Personnel Officer in accordance with Railway Board circulars.

3.3 The office asserted that all actions, including promotions, are conducted following proper procedures and guidelines, and all employees are provided equal opportunities based on their qualifications and medical fitness. The allegations made in the complaint were termed baseless by the department.

4. Hearing (I):

4.1 The hearing was conducted on 30.05.2024 and following parties were present during the hearing:

Sl.No	Name of the Attendess	Complainant/ Respondent	Mode of Attendance
1.	Mr. Nitesh Gupta	Complainant	Online
2.	Mr. Ravi Vikram Singh, Sr. DPO	Respondent	Online

4.2 During the hearing the Court questioned the Respondents regarding the complaint, Respondent No. 2 (Sh. Ravi Vikram Singh Sr. DPO) clarified that the matter pertained to two vacancies ie. LDC (level 2) and Technician (level 2) for which the Complainant, who is 100% visually impaired, was not considered as those posts were reserved for candidates with B1 medical fitness. No post was identified for persons with such disability under the Railway's classification.

4.3 The Court highlighted that as per Section 20(3) of the Rights of Persons with Disabilities (RPwD) Act, 2016, promotion cannot be denied solely on the grounds of disability. The Court also referred to a 2021 notification which states that if a post is identified for PwDs at the feeder level, it must also be identified in the promotional grade.

4.4 The Respondent 2 argued that in 2019, a comprehensive list of more than 250 posts was issued in collaboration with the Ministry of Social Justice and Empowerment, and Mr. Gupta's disability did not match any of them. They also claimed that due to multiple feeder cadres, regular promotion beyond his current post is not feasible though MACP and other benefits are being extended. Mr. Gupta stated that as per a gazette notification dated 04.01.2021, posts like Mason and Fitter are identified for visually impaired persons in the Danapur Region. The Respondent agreed to re-examine this and ensure reasonable accommodation.

4.5 After hearing both sides, the Court found that the Respondents failed to comply with Section 20(3) of the Act and directed them to submit the list of 250 posts and the relevant guidelines by 30.05.2024, and to verify the applicability of the Danapur notification.

5. Written reply of the Respondent:

5.1 The Respondents vide their letter dated 19.06.2024 submitted that the promotion to Technician Level-2 is based on options and a trade test. Mr. Gupta had opted for the Mason post, which as per Railway Board letter No.E(NG)II/2009/RC-2/2 List dated 27.08.2009, is not suitable for visually impaired employees. However, the post of Technician (Fitter) is considered suitable for employees with visual disability, and Mr. Gupta will be considered for promotion to this post based on his choice and

trade test performance. Currently, the post of Fitter is not vacant at the O/o Assistant Divisional Engineer, Hapur.

5.2 Regarding LDCE promotion to Junior Clerk, it was clarified that there is no avenue of promotion from the Helper/Khalasi category to clerical posts through LDCE, and hence he is not eligible to apply for that exam.

6. Hearing (II):

6.1 A hearing in hybrid mode (online/offline) was conducted on 09.07.2025. The following parties/representatives were present during the hearing:

Sl.No	Name of the Attendees	on behalf of	Mode of Attendance
1.	Mr. Nitesh Gupta	Complainant	Online
2.	Mr. Ravi Vikram Singh, Sr. DPO	Respondent	Online

7. Record of Proceedings:

7.1 The Complainant submitted that he is being deprived of promotion even after his eligibility for promotion and the suitability of various available positions. In response to a question about the date of joining the service and his designation, the Complainant submitted that he joined as Khalasi (Level 1) under the office of Senior Section Engineer (Works) in Northern Railway, Hapur in 2nd January 2017.

7.2 The Complainant also submitted that Northern Railway has published Limited Departmental Competitive Examination in which 01 post of Fitter, 01 post of Painter and 03 posts for Mason were notified. Out of all these vacancies, no posts were reserved for PwD candidates.

7.3 The Respondent submitted that in 2020, 05 posts were notified. Since the Complainant is 100% visual impaired employee, he was only suitable for the post of Fitter. When the willingness was taken from all the employees, he opted for the post of Mason; hence, he was not shortlisted. The Respondent assured that, in future, if any post of Fitter

arises, then he will be considered for promotion.

7.4 The Court asked the Respondent whether the provisions of the RPwD Act, 2016, and the rules notified thereunder are being followed by them. As per Section 20(3) of the Act, no promotion shall be denied to a person merely on the grounds of disability. Further, Note 4 of the Gist of Recommendations of the Expert Committee, as contained in the DEPwD Notification dated 04.01.2021, provides that if a post is identified in the feeder grade, all the posts in the promotional grade should also be identified suitable.

7.5 After hearing both parties, the Court observed that it is a clear violation of Section 20 (3) of the Act. The Court recommended that the Respondent rectify the discriminatory practice by granting Complainant the promotion he was denied, effective from the date he was initially eligible. This includes not only adjusting his job title and associated compensation but also identifying a suitable position that aligns with his skills and experience, while adhering to the principles of reasonable accommodation as outlined in the RPwD Act. The Respondents are further mandated to submit a compliance report within 01 months, detailing the steps taken to implement this court's directive.

8. Observations and Recommendations:

8.1 The Court recommends that the Complainant be considered and granted promotion to a suitable post, particularly the post of **Technician (Fitter)**, which has been acknowledged by the Respondents as suitable for persons with visual impairment. Such promotion shall be granted with effect from the date on which the Complainant first became eligible, along with all consequential service and financial benefits.

8.2 The Respondents are further suggested to ensure reasonable accommodation to the Complainant in accordance with the RPwD Act, 2016, including appropriate job allocation, assistive support if required, and removal of procedural barriers that disproportionately disadvantage persons with benchmark disabilities. The Court recommends that the Respondents undertake a comprehensive review of their vacancy

notification and post-identification practices to ensure that posts suitable for persons with disabilities, including visually impaired persons, are appropriately identified and reflected in future notifications, including LDCE and other promotional processes.

8.3 The Respondents are also recommended to submit a detailed compliance report within one month from the date of receipt of this recommendation, clearly indicating the steps taken to grant promotion to the Complainant, the effective date of such promotion, financial benefits released, and measures adopted to prevent recurrence of similar violations.

9. Accordingly, the case is disposed of accordingly.

(S. Govindaraj)

Commissioner for Persons with Disabilities