



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/14562/1011/2023
In the matter of —

Manish Kumar

... Complainant

Versus

The Chairman DCC & Secretary (T),
 Department of Telecommunications,
 Ministry of Communications
 Sanchar Bhawan, New Delhi

... Respondent

1. Gist of the Case:

1.1 Mr. Manish Kumar, a person with a benchmark disability, filed a Complaint dated 13/10/2023 regarding the denial of service allocation to the post of Junior Telecom Officer (JTO) under the Department of Telecommunications despite securing All India Rank (AIR) 48 in the UPSC Engineering Services Examination (ESE)-2022 and being declared medically FIT.

1.2 The complainant applied under the ESE-2022 Notification No. 01/2022-ENGG dated 22/09/2021 as a PwD candidate in the BL (Both Legs affected) category. He cleared the written examination and was thereafter subjected to a medical examination conducted on 02/02/2023 at Lady Hardinge Medical College (LHMC) and Sucheta Kriplani Hospital (SSK), New Delhi, and was declared fit on 28/04/2023 across all functional classifications, namely S, ST, W, BN, KC, RW, MF, PP, SE, and C/H. However, in the service allocation list issued on 12/06/2023, his candidature was excluded with the remark “not fulfilling physical requirements for reserved post (JTO),” on the ground that the BL category was not identified as suitable, unlike OL, LV, OA, and MW categories as per Annexure-I of the ESE Rules, 2022, which was based on the MoSJE Notification No. 16-15/2010-DDIII dated 29/07/2013. The complainant contends that he is functionally capable of

performing all prescribed physical requirements except jumping, which is supported by submitted video evidence showing activities such as climbing stairs, walking, and performing standing work.

1.3. He further asserts that his functional mobility is comparable to OL category candidates, as he is able to walk without assistive devices, stand for more than 12 hours, and lift and carry weights. He relies upon the Ministry of Social Justice and Empowerment Office Memorandum No. 38-16/2020-DD-III dated 04/01/2021, which provides for flexibility and interchangeability within locomotor disability sub-categories. He also alleges that the denial of allocation in June 2023 violates the statutory mandate of 4% horizontal reservation for PwD under Section 34 of the Rights of Persons with Disabilities Act, 2016, as well as the principles of non-discrimination under Sections 3 and 20 of the Act. He further relies on DoPT OM No. 36035/1/2017-Estt(Res) dated 21/12/2017 regarding reservation roster implementation and the judgment in *Ira Singhal vs. Union of India*, which emphasizes reasonable accommodation and functional assessment over rigid classification. The complainant has placed on record his disability certificate, videos, application under Rule 38, and extracts of the CAT judgment, and states that the disability certificate was submitted on 25/10/2023.

1.4. The complainant has sought a direction for a re-medical examination to reassess his functional requirements, allocation to the post of JTO with consequential back wages from 12/06/2023, and directions to revise post identification in line with the Ministry of Social Justice and Empowerment Office Memorandum dated 04/01/2021 by treating mild BL disability at par with OL category wherever functionally equivalent. He has also sought compensation for alleged discrimination and mental agony, along with appropriate directions to ensure compliance with the Rights of Persons with Disabilities Act, 2016 in future ESE allocations.

2. Notice issued to the Respondents:

In exercise of the powers conferred u/s 75 & 77 of the Rights of Persons with Disabilities Act, 2016 [hereinafter referred to as "the Act"], a notice dated 16/10/2023 was issued for violation under sections 3, 20 & 34 of the Act to the abovementioned respondents for forwarding to this Court comments on affidavit on the complaint within the statutory time limit.

3. Reply filed by the Respondents:

3.1 Department of Telecommunications filed a reply dated 26/10/2023, stating allocation per ESE Rules 2022 Annexure-I (BL not suitable for JTO, only OL/LV/OA/MW; no vacancy for BL); the candidate is ineligible ab initio, having wrongly self-declared OL in the DAF/Medical Form (Annexure-IV); UPSC allocation preference-cum-merit is subject to FC/PR; no authority to override rules; enclosed ESE notification, medical certificate (Annexure-III), and email admission of BL (Annexure-II); rejected re-medical as post-allocation.

3.2 Union Public Service Commission endorsed DoT's position in a joint submission; confirmed medical fitness is provisional, allocation based on cadre inputs; there is no PwD backlog for BL in the E&T discipline; complied with the RPwD Act via horizontal reservation (4% of 167 vacancies = 7 PwD slots filled per FC).

4. Rejoinder filed by the Complainant:

4.1 The complainant filed a rejoinder dated 06/11/2023, disputing the respondent's contention regarding his ineligibility. He submitted that Annexure-I of the ESE Rules is subject to revision in view of the statutory mandate under Section 33(iii) of the Rights of Persons with Disabilities Act, 2016, and relied upon the Ministry of Social Justice and Empowerment Office Memorandum dated 04/01/2021, which revised the identification of posts and recognized greater flexibility within the locomotor disability categories, including the BL category. The complainant reiterated his request for a re-medical examination and a demonstration of his physical requirements, asserting that he is capable of performing all eleven prescribed physical requirements and, in functional terms, is better equipped than certain candidates with severe OL disabilities who are selected without assistive devices. He further alleged that the denial of appointment amounts to discrimination under Section 20 of the Rights of Persons with Disabilities Act, 2016, and challenged the validity of the applicable recruitment rules as being discriminatory. In support of his submissions, he enclosed a copy of the judgment in *Ira Singhal v. Union of India* (2014) and requested a personal hearing along with consideration of the video evidence placed on record.

4.2 By way of an additional submission dated 17/11/2023, the complainant reiterated that his functional abilities are equivalent to those of candidates falling under the OL category and urged the respondents to implement the applicable

DoPT and DEPwD guidelines in their true spirit. He further submitted that, as reflected in the respondent's status report dated 08/07/2025, no change had occurred in his case and that he continues to remain unemployed.

5. Hearing:

5.1 A hearing was conducted on 09.12.2025 in hybrid mode wherein following were present :

Sl. No.	Name & Designation of the Attendees (Smt./Shri)	On behalf of	Mode of Presence
1.	Manish Kumar	Complainant	Online
2.	Patanjali Prakash, Director	Respondent	Online
3.	Vikas Gautam, ADET	Respondent	Online

5.2 The complainant reiterated that he possesses the requisite educational qualifications and was declared medically fit by the competent Medical Board. He submitted that he is functionally capable of discharging the duties attached to the post of Junior Telecom Officer (JTO). It was further contended that his condition of mild disability affecting both legs (BL) is functionally comparable to the OL (One Leg) category, as he is able to walk independently without assistive devices, stand for prolonged periods exceeding twelve hours, and perform the physical requirements associated with the post.

5.3 The respondent submitted that the duties of the post of Junior Telecom Officer involve significant physical requirements, particularly in field conditions, and that the recruitment process was conducted strictly in accordance with the disability categories identified in the Engineering Services Examination Rules and the applicable Government guidelines. It was contended that the complainant could not be considered for allocation against the JTO post as the BL category had not been identified as suitable for the said post under the notified recruitment framework.

5.4 Upon consideration of the submissions made by both parties, the Court observed that the rejection of a candidate solely on the basis of the disability category, without undertaking an assessment of the candidate's actual functional capabilities, is inconsistent with the principle of reasonable accommodation embodied in the Rights of Persons with Disabilities Act, 2016. The Court further observed that the identification of posts should not be treated as exhaustive or applied in a rigid manner where the functional abilities of the candidate demonstrate suitability for the post. An approach that places exclusive reliance on disability labels, rather than an objective assessment of functional competence, undermines the legislative intent of ensuring equal opportunity and meaningful participation of persons with benchmark disabilities in public employment.

6. Observations and Recommendations

6.1 The Court observes that the complainant was declared medically fit by the competent Medical Board and that his exclusion from allocation to the post of

Junior Telecom Officer appears to have been based solely on the disability category mentioned in his certificate, without any individualized assessment of his functional ability to perform the duties of the post. Such an approach does not fully accord with the principles of equality, non-discrimination, reasonable accommodation, and reservation embodied in Sections 3, 20, and 34 of the Rights of Persons with Disabilities Act, 2016.

6.2 The Court further observes that the identification of posts for persons with benchmark disabilities is intended to facilitate inclusion and should be periodically reviewed in light of evolving functional assessment standards and applicable Government guidelines. The objective of reservation under the Rights of Persons with Disabilities Act, 2016 is best served through an assessment of the actual functional requirements of the post vis-à-vis the capabilities of the candidate, rather than by adopting an inflexible interpretation of disability categories.

6.3 In the above circumstances, it is recommended that the Respondent examine the complainant's case by undertaking an appropriate functional assessment for the post of Junior Telecom Officer (JTO) and consider his candidature against available vacancies reserved for Persons with Benchmark Disabilities, including backlog vacancies, if he is found functionally suitable in accordance with the applicable recruitment rules and statutory provisions. If found eligible and suitable, the respondent may also consider extending appropriate consequential service benefits in accordance with law.

6.4 Further, the Respondent undertake a review of the existing post-identification framework for the post of Junior Telecom Officer and other similarly situated posts, with a view to ensuring that the identification of suitable disability categories reflects the principles of functional assessment and flexibility envisaged in the Office Memorandum dated 04.01.2021 issued by the Ministry of Social Justice and Empowerment, as well as the objectives of the Rights of Persons with Disabilities Act, 2016.

6.5 The Respondent shall communicate the action taken on the above recommendations to this Court by filing an Action Taken Report within **two months** from the date of receipt of this order, in terms of Section 76 of the Rights of Persons with Disabilities Act, 2016.

7. Accordingly, the case is disposed of.

(S. Govindraj)
Commissioner for Persons with Disabilities