



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
 5वाँ तल ,एन.आई.एस.डी .भवन ,जी ,2-सेक्टर ,10-द्वारका ,नई दिल्ली110075-; दूरभाष 20892364(011) :
 5th Floor, N.I.S.D. Bhawan, G-2, Sector-10, Dwarka, New Delhi-110075; Tel.: (011) 20892364
 Email: ccpd@nic.in; Website: www.ccpd.nic.in

Case No. CCPD/14483/1021/2023

In the matter of:

Shri Indresh Kumar ... Complainant

Versus

The Secretary, Railway Board ... Respondent

1. Gist of the Complaint

1.1 The Complainant, Shri Indresh Kumar, a person with 55% locomotor disability and serving as Office Superintendent in the Stores Department, South East Central Railway (SECR), Raipur, filed the present complaint under Section 75 of the Rights of Persons with Disabilities Act, 2016. He also stated that he is the President of the South East Central Railway Divyang Employees Welfare Association.

1.2 The Complainant alleged that the Respondent had failed to implement reservation in promotion for Persons with Benchmark Disabilities (PwBDs) in accordance with Railway Board Establishment Rule No. 74/2022 dated 01.07.2022 and the subsequent circular dated 13.03.2023. He submitted that separate 100-point promotional rosters and cadre-wise registers had not been properly maintained, prescribed roster points were not being followed uniformly, and the provisions relating to interchange of vacancies and relaxation of the zone of consideration were not being implemented. According to him, these lapses resulted in denial of promotional benefits to eligible PwBD employees.

1.3 The Complainant, therefore, sought directions for proper implementation of the Railway Board's policy on reservation in promotion and for extending the benefit of promotion to all eligible employees with disabilities.

2. Notice to the Respondent

2.1 Notice dated 04.10.2023 was issued to the Respondent under the provisions of the Rights of Persons with Disabilities Act, 2016, calling upon them to submit their

comments along with the relevant records.

3. Reply of the Respondent

3.1 The Respondent submitted that the complaint was in the nature of a general grievance relating to implementation of reservation policy and not a personal service dispute. It was further contended that the Association represented by the Complainant was not recognized by the Railway Administration.

3.2 The Respondent stated that reservation in promotion for PwBD employees is being implemented in accordance with DoPT guidelines and Railway Board Establishment Rule No. 74/2022. Separate cadre-wise 100-point rosters are maintained, 4% reservation is provided wherever applicable, and the provisions relating to carry forward of vacancies, interchange among disability categories and other applicable guidelines are duly followed. Copies of promotional rosters and related records were also produced. The Respondent, therefore, denied the allegations of non-compliance and requested that the complaint be closed.

4. Rejoinder of the Complainant

4.1 In his rejoinder, the Complainant reiterated that the complaint had been filed to safeguard the rights of all employees with disabilities. He submitted that the Association is a registered body and that reservation in promotion has not been implemented in its true spirit.

4.2 The Complainant further alleged that the prescribed promotional rosters were not being properly maintained and that adequate grievance redressal mechanisms for PwBD employees were absent. He also raised certain allegations regarding administrative irregularities and disciplinary proceedings initiated against him, contending that these actions were intended to victimise him for pursuing the rights of employees with disabilities.

4.3 The Complainant requested the Respondent to produce complete promotional rosters, details of the Liaison/Grievance Redressal Officer, and information regarding unfilled reserved vacancies to demonstrate compliance with the reservation policy.

5. Hearing

5.1 A hybrid hearing was held on 13.11.2025 wherein following parties attended were present:

S. No.	Name and designation of the Attendees	On behalf of	Mode of Attendance

1.	Mr. Indresh Kumar	Complainant	Online
2.	Mr. Prakash A., Sr. Personnel Officer (Industrial Relation), South East Central Railway, Bilaspur	Respondent	Online

5.2 During the hearing, the Respondent submitted that the Complainant was otherwise eligible for promotion to the post of Chief Office Superintendent (Level-7). However, his promotion had been withheld due to pending disciplinary proceedings arising out of a complaint of sexual harassment. It was stated that a major penalty charge sheet had been issued on 20.09.2023 and the disciplinary proceedings were at an advanced stage. The Respondent further informed the Court that one promotional post had been earmarked for the Complainant and that his case would be considered after conclusion of the disciplinary proceedings.

5.3 The Complainant disputed the disciplinary proceedings and submitted that the complaint against him was false and the proceedings had not been conducted fairly. He contended that although the complaint had been pending since 2019, the charge sheet was issued only after he approached this Court seeking implementation of reservation in promotion.

5.4 The Court sought clarification from the Respondent regarding the delay in considering the Complainant's promotion despite the implementation of reservation in promotion under Railway Board Establishment Rule No. 74/2022 and also regarding the delay in initiation of disciplinary proceedings. As the Respondent was unable to furnish complete particulars during the hearing, it was recommended to place a detailed chronological report on record.

6. Additional Reply of the Respondent

6.1 In compliance with the directions of this Court, the Respondent filed an additional reply stating that the major penalty charge sheet had been issued on 20.09.2023 following proceedings before the Internal Complaints Committee (ICC). The ICC submitted its report on 16.10.2025 holding the allegations proved, and thereafter the disciplinary authority imposed a major penalty vide order dated 06.01.2026, reducing the Complainant's pay by two stages for a period of three years with cumulative effect.

6.2 The Respondent further submitted that in view of the penalty imposed, the Complainant would be considered for actual promotion only after completion of the penalty period and upon obtaining the requisite disciplinary and vigilance clearances. It was also reiterated that reservation in promotion for PwBD

employees is being implemented in accordance with the applicable DoPT instructions and Railway Board guidelines.

7. Observations

7.1 The principal grievance of the Complainant relates to implementation of reservation in promotion for Persons with Benchmark Disabilities. The Respondent has asserted that the applicable policy is being implemented. However, the facts of the present case indicate that although reservation in promotion became operational pursuant to Railway Board Establishment Rule No. 74/2022, the Complainant's case was not considered during the period from 01.07.2022 to 19.09.2023, when no formal charge sheet had been issued against him.

7.2 The record further shows that although the complaint leading to disciplinary proceedings originated in 2019, the major penalty charge sheet was issued only on 20.09.2023, after the present complaint had been instituted before this Court. As held by the Hon'ble Supreme Court in *Union of India v. K.V. Jankiraman*, an employee's promotion can ordinarily be withheld under the sealed cover procedure only after issuance of a charge sheet or placement under suspension. Therefore, the Respondent ought to have considered the Complainant's case for promotion during the period prior to issuance of the charge sheet.

7.3 At the same time, this Court notes that disciplinary proceedings have since been concluded and a major penalty has been imposed upon the Complainant by the competent authority. The protections available under the Rights of Persons with Disabilities Act, 2016 are intended to prevent discrimination on the ground of disability and cannot be construed as conferring immunity from disciplinary proceedings relating to misconduct. The findings recorded under the applicable disciplinary framework, including proceedings arising from the Internal Complaints Committee, cannot be interfered with in these proceedings.

8. Recommendations

8.1 In exercise of the powers conferred under Section 75 of the Rights of Persons with Disabilities Act, 2016, the Respondent is suggested to convene a Review Departmental Promotion Committee (Review DPC) to consider the Complainant's case for promotion to the post of Chief Office Superintendent (Level-7) for the period from 01.07.2022 to 19.09.2023, i.e., prior to the issuance of the major penalty charge sheet. If the Complainant is found fit, he shall be granted notional promotion from the date on which his immediate junior or similarly situated employee was promoted under the PwBD quota.

8.2 Since a major penalty has subsequently been imposed upon the Complainant,

such notional promotion shall not confer any immediate right to assume charge of the higher post or to receive financial benefits during the currency of the penalty. His case for actual promotion shall be considered in accordance with the applicable service rules after completion of the penalty period and subject to the requisite disciplinary and vigilance clearances.

8.3 The General Manager, South East Central Railway, shall ensure strict compliance with the provisions relating to reservation in promotion for Persons with Benchmark Disabilities by maintaining and periodically reviewing the prescribed 100-point promotional rosters. The designated Liaison Officer/Grievance Redressal Officer under the Rights of Persons with Disabilities Act, 2016 shall verify compliance and ensure that details of reserved, carried-forward and unfilled vacancies are maintained in a transparent manner.

9. In view of the above observations and recommendations, the grievance raised in the present complaint stands duly examined. The Respondent shall comply with the above directions within **60 days** from the date of receipt of this Order and submit an appropriate Action Taken report before this Court.

10. Accordingly, the case is disposed of.

(S. Govindaraj)

Commissioner for Persons with Disabilities