



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.: 14025/1011/2023

In the matter of:

Complainant

Shri Suman Paul

Versus

Respondent(s)

- (1) The Chairman, Staff Selection Commission
- (2) The Secretary, Department of Personnel and Training (DoPT), Ministry of Personnel, Public Grievances and Pensions
- (3) The Secretary, Department of Empowerment of Persons with Disabilities, Ministry of Social Justice and Empowerment

1. Gist of the Complaint

1.1 The Complainant, Shri Suman Paul, submitted a formal grievance dated 21.02.2023 challenging the rejection of his final selection under the Persons with Benchmark Disabilities (PwBD) category for the Combined Graduate Level Examination (CGLE) 2021; the vacancies for the same were advertised vide notification dated 29.12.2020. Despite successfully qualifying the Tier-I, Tier-II, and Tier-III examinations, his candidacy was turned down during the document verification stage on 23.01.2023, at the Staff Selection Commission (SSC) Eastern

Region office in Kolkata. The recruitment authorities rejected his selection on the ground that his clinical profile, Thalassemia Major combined with Dwarfism and Bow legs (evaluated at 70% permanent physical impairment), does not qualify for direct recruitment reservation benefits under the “multiple disabilities” quota of Section 34 of the Rights of Persons with Disabilities (RPwD) Act, 2016. While the Complainant submitted that Thalassemia is an officially recognized disability under the statutory schedule of the Act, he actually prayed for a formal rectification of his candidature to the Multiple Disability (MD) category, a comprehensive realization of his unique clinical circumstances to ensure justice, a legal pathway to safely join the Combined Graduate Level (CGL) 2021 service, and an urgent intervention from the Court to protect his selection from being summarily cancelled.

1.2 The present complaint raises an issue extending beyond the grievance of an individual candidate and concerns the implementation of the Rights of Persons with Disabilities Act, 2016 (RPwD Act), particularly the scope of equal opportunity in public employment for persons with benchmark disabilities. The controversy necessitates an examination of the constitutional guarantees under Articles 14, 16 and 21 of the Constitution of India, read with the statutory framework of the RPwD Act, 2016, and India's obligations under the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD), to which India is a State Party.

2. Submissions by the Respondent

2.1 The Respondents filed written replies defending their actions. DEPwD, in its reply dated 01.06.2023, stated that persons with Thalassemia are not entitled to reservation under Section 34 of the RPwD Act, 2016, and that Dwarfism with Thalassemia cannot be treated as multiple disabilities for reservation. DoPT, in its reply dated 02.06.2023, submitted that the matter primarily concerned the recruiting agency.

2.2 SSC Headquarters, in its reply dated 01.06.2023 (forwarded on 02.06.2023), justified the rejection of the complainant during document verification on the ground that no post had been identified as suitable for persons with Thalassemia.

2.3 The Respondents did not dispute that Thalassemia is a specified disability under the RPwD Act, 2016. The dispute was limited to the interpretation of Section 34 regarding reservation in public employment and identification of posts.

3. Hearing (I)

3.1 A hearing was conducted on 06.02.2025 in hybrid mode, wherein the following parties/representatives were present:

S.NO	NAME /DESIGNATION OF THE PARTY	REPRESENTATIVE OF
1	Shri Suman Paul	Complainant
2	Shri Sanjay Kashyap, Under Secretary	Respondent 1
3	Shri Sandeep Saxena, Deputy Secretary	Respondent 2
4	Smt. Debala Bhattacharjee, Deputy Secretary	Respondent 3

4. Record of Proceedings

4.1 During the proceedings, Respondent No. 1 (SSC), represented by Shri Sanjay Kashyap, Under Secretary, submitted that the candidate's rejection aligned strictly with active on-ground frameworks. The Staff Selection Commission contended that while it carries out recruitment notifications according to dynamic guidelines, thalassemia does not feature independently within the four explicit reservation slots mapped out under Section 34(1) clauses (a) through (d) of the RPwD Act. Respondent No. 2 (DoPT), represented by Shri Sandeep Saxena, Deputy Secretary, and Respondent No. 3 (DEPwD), represented by Smt. Debala

Bhattacharjee, concurrently submitted that while the Supreme Court of India and the active statutory schedules recognize thalassemia as a valid disability, direct recruitment reservation benefits are limited to the exact specifications of Section 34. Smt. Bhattacharjee clarified that for a candidate to claim a horizontal benefit under the "multiple disabilities" quota, their underlying impairments must be a combination of the specific categories listed under clauses (a) through (d) of Section 34(1). Because a combination involving locomotor disability plus thalassemia or low vision plus thalassemia does not satisfy the strict baseline definition of multiple disabilities for the specific purpose of reservation, the Complainant was deemed ineligible for the reservation pool.

4.2 The Court observed that under Note 3 of the expert committee's central Gazette Notification dated January 4, 2021, promulgated under Section 33, if a public post has historically been successfully held by an employee with a particular disability profile, that position must be deemed suitable for all individuals possessing identical or similar impairments. The Court noted that since a person with thalassemia is medically and legally certified as having a specified disability, a total administrative bar against their inclusion in horizontal reservation pools runs *prima facie* appears inconsistent with the constitutional principles of substantive equality embodied in Articles 14 and 16 of the Constitution, read with Sections 3 and 20 of the RPwD Act, 2016, which prohibit disability-based discrimination and require equal opportunity in public employment . It is a vital principle that public recruitment frameworks must serve as an enabling architecture for equal opportunity; when an entire class of citizens suffering from blood disorders is left without a practical gateway to secure state-backed livelihoods, it constitutes a macro-level policy gap that demands structural remediation.

4.3 The Court remarked that a permanent resolution to this multi-departmental issue cannot be conclusively established through a singular summary hearing instead requires structured consultation to refine the national list of identified posts.

The Court emphasized that because the core challenge raises questions of macro-policy importance, the matter cannot be summarily disposed of or closed during the initial session in the absence of the Complainant. Accordingly, to establish a permanent solution for all individuals affected by blood disorders, the Court recommended the Department of Empowerment of Persons with Disabilities (DEPwD), in active consultation with the Department of Personnel and Training (DoPT), to initiate a policy review and consider the constitution of an expert committee to address these systemic classification anomalies. The DEPwD is recommended to evaluate the practical integration of blood disorder categories within active reservation frameworks and to apprise this Court of the administrative progress made and steps taken during the subsequent session.

4.4 The Court is of the considered opinion that the present controversy reflects a broader policy issue affecting several categories of specified disabilities recognized under the Schedule to the RPwD Act but not expressly accommodated within the present framework of Section 34. While the Court refrains from entering into the legislative domain, it is nevertheless empowered to recommend corrective administrative measures wherever existing implementation practices result in unequal access to statutory rights or frustrate the objectives of beneficial legislation.

4.5 The obligation of the State under the RPwD Act is not confined merely to identifying disabilities but extends to creating an enabling framework through policy, administrative action and reasonable accommodation so that persons with benchmark disabilities are able to participate in public employment on an equal basis with others. The effectiveness of disability legislation must therefore be assessed by the opportunities it creates rather than the categories it excludes.

5. Submissions by the Respondents

5.1 Following the Court's intermediate recommendations, the Policy Section of the DEPwD submitted a final comprehensive written statement on 12.06.2025, signed by the Section Officer, which explicitly clarified that the department does not maintain a dedicated "Expert Committee" for Section 34 modifications and asserted that the historical suitability clauses under Note 3 of the 04.01.2021 notification do not automatically apply to categories left unmapped by the statutory text.

5.2 The clarification furnished by the Department of Empowerment of Persons with Disabilities that no dedicated Expert Committee presently exists for reviewing the reservation framework under Section 34 of the RPwD Act does not, by itself, absolve the Government of its continuing statutory obligation to periodically review the implementation of disability rights legislation. The absence of a formal committee cannot operate as a justification for perpetuating administrative practices that may result in unequal treatment of persons with benchmark disabilities recognised under the Schedule to the Act.

5.3 The Court observes that beneficial legislation intended to secure social justice must remain responsive to evolving medical science, functional assessment methodologies, and constitutional jurisprudence. Consequently, periodic policy review forms an integral component of the effective implementation of the RPwD Act.

6. Hearing (II)

6.1 A hearing was conducted on 17.06.2026 in hybrid mode, wherein the following parties/representatives were present:

S.NO	NAME/DESIGNATION OF THE PARTY	REPRESENTATIVE OF
1	Shri Suman Paul	Complainant
2	Shri Ram Sagar Panjjar, Under Secretary	Respondent 1

3	Ms. Charu, Deputy Secretary	Respondent 2
4	Shri Vadali Rambabu, Director (CS-I)	Respondent 2

6.2 No representatives from the side of Respondent No. 3 were present during the proceedings.

7. Record of Proceedings

7.1 During the proceedings, Respondent No. 1 (SSC), represented by Shri Ram Sagar, Under Secretary, and Respondent No. 2 (DoPT), represented by Ms. Charu, Deputy Secretary, reiterated their previous submissions (as mentioned in para 4.1) that recruitment reservations are strictly confined to the parameters explicitly delineated in Section 34.

(a) The submissions advanced by the Respondents reiterate para 4.1 of this order. While such a submission reflects the administrative understanding presently adopted by the Respondents, it does not conclude the issue before this Court. The present proceedings also require consideration of the broader statutory obligations contained in Sections 3, 20 and 33 of the RPwD Act, which independently impose duties relating to equality, non-discrimination, reasonable accommodation and identification of suitable posts.

(b) The Court is conscious that the mandate exercised in the present proceedings is not to legislate by expanding the scope of Section 34 beyond its statutory text. Nevertheless, where implementation of the statutory framework results in apparent exclusion of recognised benchmark disabilities from meaningful participation in public employment, this Court is competent to examine whether such implementation conforms to the constitutional mandate of equality and to recommend corrective executive

measures consistent with the objectives of the RPwD Act.

7.2 The Court accepted the submission of the Deputy Secretary, DoPT, noting that a definitive, uniform clarification must be drawn from the nodal department to ensure equal opportunity across all 21 recognized disabilities. The Court remarked that because this case highlights a critical macro-level policy anomaly after being pending for over a year, the matter cannot be summarily disposed of without establishing a clear administrative vision, as observed in the first hearing (as mentioned in para 4.3).

The Court is equally mindful that beneficial legislation must receive an interpretation that furthers its remedial purpose, while remaining within the limits of the statutory text enacted by Parliament.

7.3 The Court further notes that all Respondents have consistently accepted three material facts:

- i. Thalassaemia is a specified disability recognized under the Schedule to the Rights of Persons with Disabilities Act, 2016 ("RPwD Act");
- ii. The Complainant possesses a valid benchmark disability certificate; and
- iii. The rejection of candidature was not based upon lack of merit, educational qualifications, or inability to perform the essential functions of the post, but solely upon the interpretation adopted regarding reservation under Section 34.

These undisputed facts significantly narrow the controversy and require the Court to determine whether the administrative interpretation adopted by the Respondents advances or defeats the underlying objectives of the disability rights framework.

7.4 The Court also considers it necessary to distinguish between *eligibility*, *reservation*, and *reasonable accommodation*:

- a. **Eligibility** relates to the capability of a candidate to satisfy the prescribed

qualifications for a post;

- b. **Reservation** concerns the statutory mechanism for ensuring representation of persons with benchmark disabilities; and
- c. **Reasonable accommodation**, on the other hand, is an independent statutory obligation under Sections 3 and 20 of the RPwD Act, operating irrespective of the category through which a candidate seeks appointment.

Conflating these distinct concepts may result in the unintended exclusion of otherwise eligible candidates.

7 . 5 The Court is, therefore, of the opinion that the present matter raises an issue of considerable public importance affecting not merely the Complainant, but potentially other persons possessing specified disabilities recognized under the Schedule to the RPwD Act whose employment opportunities may be adversely affected by the existing administrative interpretation. Accordingly, the subsequent legal analysis shall be undertaken keeping in view the constitutional principles of substantive equality, dignity, inclusion and non-discrimination, and the consequent need for a liberal and purposive interpretation that furthers the object of the RPwD Act. Furthermore, a beneficial legislation intended to secure equality and inclusion ought not to be construed in a manner that results in unjustified discrimination among persons whom the Parliament has itself recognised as persons with benchmark disabilities.

8. Legal Framework

8.1 The Court evaluates the matter and expresses dissatisfaction with the persistent reliance of the Staff Selection Commission (SSC) and the Department of Personnel and Training (DoPT) on literal statutory omissions to defend the absolute exclusion of a legally recognized disability category from horizontal recruitment benefits. The Court observes that while the recruitment authorities

contend that they are bound by the pre-identified vacancies mapped to the four slots of Section 34(1), an administrative policy that completely excludes the Complainant, who successfully qualified Tier-I, Tier-II, and Tier-III of the CGL 2021 exam and cleared document verification, solely because his blood disorder does not fit into clauses (a) through (d), is an egregious failure of the state's welfare architecture. Entry-level CGL positions are executive, administrative, and desk-based roles that do not demand strenuous physical manoeuvres or safety-critical field duties, rendering generic assumptions of technical or physical incompetence completely inapplicable.

- a. The Court observes that the Rights of Persons with Disabilities Act, 2016 is a remedial and beneficial legislation enacted to translate the constitutional guarantees of equality and dignity into enforceable statutory rights. Articles 14 and 16 of the Constitution prohibit arbitrary discrimination and guarantee equality of opportunity in public employment. Article 21 protects the right to live with dignity, while Articles 38, 41 and 46 cast a positive obligation upon the State to promote social justice and protect the interests of persons with disabilities. Consequently, the provisions of the RPwD Act require an interpretation that advances inclusion, participation and equal opportunity rather than one that perpetuates exclusion through narrow administrative construction.
- b. The Court notes that it is a settled principle of statutory interpretation that beneficial legislation enacted for the protection of vulnerable sections of society must receive a purposive and liberal construction. The RPwD Act represents a shift from a charity-based approach towards a rights-based framework founded upon equality, autonomy and participation. Administrative implementation must therefore further the legislative purpose rather than frustrate it by adopting a rigid interpretation that undermines the effective

enjoyment of statutory rights.

- c. Article 27 of the United Nations Convention on the Rights of Persons with Disabilities recognizes the right of persons with disabilities to work on an equal basis with others and obligates State Parties to prohibit discrimination in recruitment, appointment and conditions of employment. Articles 3 and 5 further recognize equality, dignity, non-discrimination and reasonable accommodation as foundational principles governing disability rights. Since Parliament enacted the RPwD Act to fulfil these obligations, the provisions of the Act must receive an interpretation that is harmonious with the Convention wherever such interpretation is reasonably possible.

8.2 As noted in the preliminary research of the Court, in the absence of an active, legally validated exemption order under the proviso to Section 34(1), the categorical exclusion of Thalassemia candidates from the horizontal reservation pool amounts to systemic discrimination and a direct violation of the law. The Court made it clear that bureaucratic inertia and the lack of coordination between the DEPwD and the DoPT carry no legal weight to dilute active statutory mandates of equal opportunity and non-discrimination.

- a. Equality and Non-discrimination: Section 3 of the RPwD Act embodies the principle of substantive equality by prohibiting discrimination on the ground of disability unless such differentiation constitutes a proportionate means of achieving a legitimate aim. Accordingly, once a person is recognized as possessing a benchmark disability under the Act, any exclusion from public employment must be supported by objective functional considerations rather than assumptions arising solely from the medical diagnosis or administrative categorization of disability.
- b. The obligation to provide reasonable accommodation under Sections 3 and 20 of the RPwD Act operates independently of the reservation mechanism contained in Section 34. Reservation seeks to enhance representation of

persons with benchmark disabilities, whereas reasonable accommodation ensures that an otherwise eligible candidate is not denied equal participation merely because reasonable adjustments have not been considered. The two concepts, though complementary, are legally distinct and should not be conflated.

8.3 The Court observed that **Thalassemia** is an inherited genetic blood disorder requiring lifelong medical management, including regular blood transfusions and iron chelation therapy. It is recognised under the WHO ICD-11 as a disease of the blood. While its severity varies, the condition primarily affects physical health and does not impair cognitive, sensory, or motor functions. Accordingly, persons with Thalassemia remain fully capable of performing executive and administrative duties.

8.4 The Court further observes that while the clinical and medical etiology of Thalassemia, outlined in para 8.3 above, provides a necessary understanding of the disorder, it is a fundamental principle of disability jurisprudence that recruitment and reservation benefits must be determined based on the actual functional capacity of the individual. In alignment with the international standards delineated by the World Health Organization's International Classification of Functioning, Disability and Health (ICF), the focus of public employers must be on the specific abilities and adaptations of the candidate rather than rigid medical diagnoses. The clinical profile of a person with a disability must be understood by administrative authorities as a basis for empathy, reasonable accommodation, and the facilitation of an enabling environment, rather than being weaponized as a tool of exclusion or disqualification.

a. The Court notes that the modern disability jurisprudence therefore evaluates

the functional ability of the individual to perform the essential requirements of a post rather than relying exclusively upon medical labels. Public employment decisions should accordingly be based upon evidence relating to functional competence, reasonable accommodation and the essential duties of the post.

- b. The Court is of the considered opinion that blanket assumptions regarding employability based solely upon diagnosis are inconsistent with contemporary disability jurisprudence. Individual assessment of the candidate's functional capacity remains the cornerstone of fair recruitment. Where the essential functions of the post can be effectively performed with or without reasonable accommodation, exclusion merely because of the nomenclature of a disability would defeat the objectives of the RPwD Act.

8.5 The Court highlights the comprehensive legal framework under the Rights of Persons with Disabilities (RPwD) Act, 2016, which directly governs this dispute:

Section 34(1) – Mandatory 4% Reservation:

Under the Rights of Persons with Disabilities (RPwD) Act, 2016, Section 34(1) mandates a 4% horizontal reservation in public employment, but explicitly distributes those benefits across only specific categories listed in clauses (a) through (e):

(a) Blindness and low vision

(b) Deaf and hard of hearing

(c) Locomotor disability including cerebral palsy, leprosy cured, dwarfism, acid attack victims and muscular dystrophy

(d) Autism, intellectual disability, specific learning disability and mental illness

(e) Multiple disabilities from amongst persons under clauses (a) to (d)

This leaves out several of the 21 specified disabilities recognized in the

Act's Schedule.

To ensure complete legal accuracy in the judicial draft, here is the clear list of all the specified disabilities that are currently excluded from the structural reservation benefits of Section 34(1):

Blood Disorders

(a) Thalassemia

(b) Hemophilia

(c) Sickle Cell Disease

Chronic Neurological Conditions

(a) Multiple Sclerosis

b. *Parkinson's Disease*

Speech and Language Disability

a. *Speech and Language Disability (specifically when manifesting as a permanent condition affecting organic speech and language, separate from intellectual or neurological impairments)*

Section 33 – Identification of Posts:

Mandates the appropriate government to identify posts in establishments which can be held by respective persons with benchmark disabilities. Under Note 3 of the central Gazette Notification dated 04.01.2021, if a post has historically been successfully held by an employee with a particular disability profile, that position must be deemed suitable for all individuals possessing identical or similar impairments.

Section 3 – Equality and Non-discrimination:

Mandates that no person with a disability shall be discriminated against on the ground of disability, unless it can be shown that the impugned act is a proportionate means of achieving a legitimate aim.

Section 2(r) – Person with Benchmark Disability:

Defines a "person with benchmark disability" as a person with not less than

forty percent (40%) of a specified disability where the specified disability has not been defined in measurable terms, or a person with a disability where the specified disability has been defined in measurable terms, as certified by the certifying authority. This definition serves as the statutory threshold for accessing reservation benefits under Section 34.

Section 20 Non-Discrimination in Employment:

Directs every government establishment to provide a non-discriminatory working environment. This statutory framework requires employers to actively provide "reasonable accommodation" rather than relying on structural omissions of the law to flatly deny recruitment opportunities.

- a. Sections 3, 20, 33 and 34 of the RPwD Act must be read harmoniously rather than in isolation. Section 34 prescribes the framework for reservation; Section 33 mandates identification of suitable posts; Sections 3 and 20 prohibit discrimination and require reasonable accommodation. None of these provisions can be interpreted in a manner that renders another provision ineffective. Administrative implementation must therefore ensure that reservation, identification of posts and non-discrimination collectively advance the legislative objective of equal opportunity.
- b. The process of identifying suitable posts under Section 33 is dynamic in nature and necessarily requires periodic review in the light of advances in medical science, assistive technology, workplace adaptation and evolving judicial interpretation. The absence of timely revision cannot justify indefinite exclusion of recognized categories of benchmark disabilities where functional assessment demonstrates compatibility with the duties attached to the post.

8.6 The principles embodied in Sections 3 and 20 impose a continuing statutory obligation upon every Government establishment to secure equality of opportunity, prohibit disability-based discrimination except where legally justified, and provide

reasonable accommodation consistent with the objectives of the RPwD Act. The Court finds the defensive stance of the Respondents that because blood disorders are not independently mapped within clauses (a) through (d) of Section 34(1), individuals with such certified specified disabilities can be systematically left without a practical gateway to secure state-backed livelihoods (as mentioned in para 4.2) as infructuous. Furthermore, the Department of Empowerment of Persons with Disabilities (DEPwD) cannot absolve itself of its structural obligations by stating that no dedicated expert committee exists for Section 34 amendments or that its past Gazette Notifications issued under Section 33 are wholly inapplicable to unmapped conditions, as submitted in its written statement (as mentioned in para 5.1). As mentioned in para 4.2, Note 3 of the Central Gazette Notification dated January 4, 2021, explicitly establishes the historical suitability rule. Denying horizontal reservation pools to this class of citizens runs completely contrary to the anti-discriminatory vision of the statute and creates an impermissible macro-level policy gap (as mentioned in para 4.2).

- a. The constitutional guarantee of equality under Articles 14 and 16 extends beyond formal equality and embraces the doctrine of substantive equality, which requires the State to remove structural barriers that prevent disadvantaged groups from enjoying equal opportunities. Disability jurisprudence has consistently recognised that identical treatment of unequals may itself amount to discrimination. Consequently, implementation of disability legislation must be directed towards achieving real and effective participation in public employment rather than merely ensuring formal compliance with statutory provisions.
- b. The Hon'ble Supreme Court in *Vikash Kumar v. Union Public Service Commission*, (2021) 5 SCC 370, recognised reasonable accommodation as an indispensable component of substantive equality under Articles 14 and 16 of the Constitution. The Court held that equality requires positive measures

enabling persons with disabilities to participate on an equal basis with others and that reasonable accommodation is not a matter of charity but a legally enforceable statutory obligation flowing from the RPwD Act and the UNCRPD. Public authorities are therefore required to adopt an enabling approach while implementing recruitment rules and cannot rely solely upon administrative convenience or rigid procedural interpretation to deny equal opportunity.

8 . 7 The Court further evaluated the statutory mechanism established by the central expert committees and the legal obligations of the Respondents. The description of the executive and assistant roles in the CGL cadre indicates that these positions primarily involve administrative processing, file management, and clerical tasks under standard supervisory structures. Because these roles do not demand safety-critical field operations, any blanket exclusion based solely upon diagnosis, without undertaking an individualized functional assessment or considering the statutory obligations under the RPwD Act, would require compelling legal justification and must withstand constitutional scrutiny under Articles 14 and 16 of the Constitution.

Prema Ram v. Union of India & Ors. (2025):

The Supreme Court issued notices challenging the structural exclusion of blood disorders (specifically Haemophilia) from the horizontal reservation pool under Section 34 of the RPwD Act, 2016, observing that excluding specified disabilities recognized in the Schedule from employment reservation benefits warrants strict constitutional scrutiny under Articles 14, 16, and 21 of the Constitution.

Digant Jain v. Guru Gobind Singh Indraprastha University & Ors. (W.P. (C) No. 6978/2017, High Court of Delhi, decided on 19.09.2017

Ruled that since Thalassemia is explicitly recognized under the RPwD Act,

2016, candidates cannot be denied PwD benefits simply because administrative rules had not been updated.

Vikash Kumar v. Union Public Service Commission (2021):

Held that "reasonable accommodation" is a foundational component of equality under Articles 14 and 16 of the Constitution, and is an active statutory right available to all persons with disabilities under the RPwD Act, 2016 (regardless of whether they fall within the specific reservation categories of Section 34). The state bears an active obligation to adapt its recruitment machinery rather than relying on statutory gaps to deny opportunity.

Sruchi Rathore v. Union of India & Ors. (W.P.(C) No. 620/2017):

A key petition before the Supreme Court of India in 2017 where a candidate suffering from Thalassemia challenged structural barriers and reservation exclusions in professional medical courses, leading to directions that recognized thalassemia patients' right to equal access in educational and professional spheres under the RPwD Act, 2016.

Ravinder Kumar Dhariwal v. Union of India (2021):

Established the doctrine of indirect discrimination in disability rights, ruling that neutral-looking administrative guidelines or statutory structures (such as restricting reservations to clauses a through d) that have a disproportionate, adverse impact on persons with specific disabilities (like blood disorders or chronic neurological conditions) are legally invalid unless shown to be a proportionate means of achieving a legitimate aim.

Pranay Kumar Podder v. State of Tripura (2017):

Heavily reinforced that individuals with Thalassemia cannot be subjected to generalized medical disqualifications or denied equal treatment in educational and employment opportunities without a rigorous, individualized functional assessment of their capabilities, establishing that clinical status does not equate to functional incapacity.

Jeeja Ghosh and the Right to Dignity

In Jeeja Ghosh v. Union of India, (2016) 7 SCC 761, the Hon'ble Supreme Court affirmed that the dignity of persons with disabilities constitutes an inseparable facet of Article 21 of the Constitution. The Court emphasised that disability rights are human rights and that every public authority is duty-bound to ensure equal participation, respect for autonomy and protection against discriminatory treatment. The principles enunciated therein reinforce the obligation of statutory authorities to adopt an interpretation that furthers inclusion and equal opportunity.

Ravinder Kumar Dhariwal and Indirect Discrimination

In Ravinder Kumar Dhariwal v. Union of India, (2021) 2 SCC 213, the Hon'ble Supreme Court recognised that discrimination may arise not only through explicit exclusion but also through facially neutral policies that disproportionately disadvantage persons with disabilities. The doctrine of indirect discrimination requires authorities to evaluate the actual impact of administrative rules rather than merely their textual formulation. Accordingly, if the practical implementation of the reservation framework results in systematic exclusion of recognised benchmark disabilities without adequate justification, such implementation warrants careful constitutional scrutiny.

Rajive Raturi and Continuing Obligations

In Rajive Raturi v. Union of India, the Hon'ble Supreme Court reiterated that accessibility and inclusion are continuing obligations of the State and that implementation of disability legislation requires progressive and sustained executive action. The responsibility of public authorities is therefore not exhausted by enactment of legislation but extends to ensuring that statutory rights remain meaningful through periodic policy review, removal of barriers and effective implementation.

National Federation of the Blind

The decision of the Hon'ble Supreme Court in Union of India v. National

Federation of the Blind, (2013) 10 SCC 772, emphasises that statutory provisions relating to reservation for persons with disabilities must receive a liberal and purposive interpretation consistent with the object of promoting effective representation in public employment. Administrative authorities are expected to implement reservation policies in a manner that advances the legislative purpose rather than restricts it through technical interpretation.

8.8 These judicial pronouncements collectively establish that the RPwD Act must be interpreted as a comprehensive rights-based legislation. Reservation under Section 34, identification of posts under Section 33, equality under Section 3 and reasonable accommodation under Section 20 are complementary statutory mechanisms intended to achieve substantive equality. An interpretation that isolates one provision from the others may defeat the legislative object and diminish the effectiveness of the statutory framework.

8.9 Furthermore, the Court deems it necessary to address and depart from the conservative approach taken in its earlier decision in the case of Ms. Payal Masihi v. Staff Selection Commission (Case No. 12647/1011/2021, order dated 24.08.2021). In that matter, the Court had summarily dismissed a similar complaint on the narrow ground that Thalassemia is not explicitly mapped under Section 34(1) of the RPwD Act, 2016, concluding that its exclusion did not constitute discrimination.

- a. The Court observes that such a literalist and restrictive interpretation is legally unsustainable in light of subsequent jurisprudence. As established by the Supreme Court of India in Vikash Kumar (as mentioned in para 8.6) and Ravinder Kumar Dhariwal (as mentioned in para 8.6), the rights to non-discrimination and reasonable accommodation under Sections 3 and 20 are absolute and independent of the specific reservation slots under Section 34(1).

- b. Relying on regulatory gaps or mechanical listing to completely deny opportunity to certified benchmark disabilities defeats the welfare purpose of the Act. Additionally, the present case of Shri Suman Paul is functionally distinguishable: unlike the sole diagnosis in Payal Masihi, the Complainant here possesses a primary benchmark disability of Dwarfism (50%) under Section 34(1)(c), which independently qualifies him for the locomotor reservation pool, making the mechanical rejection of his candidature on the basis of a co-morbid blood disorder a clear administrative error.
- c. The present complaint is distinguishable from cases involving candidates whose primary disability does not independently fall within one of the categories enumerated in Section 34(1). Here, the Complainant possesses Dwarfism, which is expressly recognized under Section 34(1)(c), in addition to Thalassemia and Bow Legs. Consequently, the principal issue is not whether Thalassemia alone attracts reservation, but whether the Respondents were justified in overlooking the Complainant's independently qualifying benchmark disability while assessing his candidature. This aspect merits fresh consideration in accordance with law and the applicable statutory framework.

9. Observation and Recommendation

9.1 Upon consideration of the pleadings, documents placed on record, submissions advanced by the parties and the applicable statutory framework, the Court records the following findings:

- i. The Complainant is a duly certified Person with Benchmark Disability within the meaning of Section 2(r) of the Rights of Persons with Disabilities Act, 2016.
- ii. Thalassemia is a specified disability recognized under the Schedule

appended to the RPwD Act, 2016.

- iii. The Respondents have not questioned either the genuineness of the disability certificate or the educational eligibility and merit of the Complainant.
- iv. The rejection of candidature has arisen primarily on account of the interpretation presently adopted regarding reservation under Section 34 of the RPwD Act and not on account of any demonstrated inability of the Complainant to perform the essential functions attached to the post.
- v. The issues raised in the present proceedings disclose an apparent policy gap requiring administrative consideration at the level of the appropriate Government.

9 . 2 The Court recognizes that the exclusion of blood disorders and other specified disabilities from the horizontal reservation pool under Section 34(1) may have occurred inadvertently during the legislative transition from the 1995 Act to the 2016 Act. However, such structural gaps must not be allowed to persist as an absolute bar to employment. Accordingly, as per the statutory guarantees under the Rights of Persons with Disabilities Act, 2016, and the explicit recognition of blood disorders as specified disabilities, the Court formally issues a binding legal recommendation advising the Department of Empowerment of Persons with Disabilities (DEPwD) and the Department of Personnel and Training (DoPT) to immediately halt the systemic omission of Thalassemia and related blood disorders from horizontal reservation pools. The DEPwD (Respondent No. 3) is advised to initiate a formal policy review to draft a legislative amendment to Section 34(1) of the Act to include blood disorders (Thalassemia, Hemophilia, Sickle Cell Disease), chronic neurological conditions (Multiple Sclerosis, Parkinson's Disease), and speech and language disabilities, or to restructure the clause entirely to encompass all 21 categories of the statutory Schedule under the reservation mandate.

- a. The Court is conscious that questions relating to amendment of Section 34 of the RPwD Act fall within the legislative domain of Parliament. Nevertheless,

statutory authorities entrusted with implementation of the Act are under a continuing obligation to ensure that executive policies, identification of posts and recruitment practices remain consistent with the constitutional mandate of equality and the objectives of the RPwD Act. Accordingly, the recommendations contained herein are intended to facilitate effective implementation of the existing statutory framework and to address the administrative concerns brought to light by the present proceedings.

9.3 To address the structural evolution of disability rights legislation in India, it is essential to examine the legislative background of the Rights of Persons with Disabilities (RPwD) Act, 2016, which was enacted by Parliament to repeal and replace the erstwhile Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 (PwD Act, 1995). The PwD Act, 1995 was passed by Parliament to implement the Asian and Pacific Decade of Disabled Persons proclamation, providing a 3% reservation under Section 33 for only three categories of disabilities. To align domestic law with the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD), ratified by India in 2007, Parliament enacted the RPwD Act, 2016, bringing a rights-based paradigm shift. This new legislation expanded the recognized categories of disabilities from 7 to 21 (including blood disorders and neurological conditions) and, under Section 34(1), increased the horizontal reservation threshold in government establishments to 4% across five distinct categories (clauses a to e). While specific private member and government amendment bills, such as the Rights of Persons with Disabilities (Amendment) Bill, have been introduced or proposed in Parliament to modify reservation thresholds or redefine internal nomenclature, the statutory text of Section 34(1) itself has remained substantively unamended by Parliament since its inception. Instead, the macro-level policy shifts and adaptations have primarily occurred through successive revisions to the Rights of Persons with Disabilities Rules, 2017, which have seen major amendments in 2019, 2020, 2023, and 2024

to integrate new universal accessibility codes, information technology standards, and updated medical assessment methodologies.

9.4 A critical observations of the Court from the proceedings are that while all responding authorities explicitly acknowledged Thalassemia as a legally recognized disability under the schedule of the Rights of Persons with Disabilities (RPwD) Act, 2016, they relied on a flawed, highly literal contextual interpretation to justify the applicant's exclusion. By focusing solely on why Thalassemia does not independently fit the rigid reservation criteria under Section 34(1) clauses (a) through (d), the respondents overlooked the candidate's concurrent, fully eligible condition of Dwarfism, which is a recognized locomotor disability. Consequently, while they correctly identified that Thalassemia lacks direct horizontal reservation benefits under current administrative frameworks, they utilized that limitation as a blanket justification to bypass their overarching statutory obligation to accommodate an applicant whose combined profile includes an otherwise valid, benchmark-level locomotor disability.

(a) The Court further recommends that future recruitment involving persons with benchmark disabilities should increasingly adopt a functional assessment approach, focusing upon the essential requirements of the post, the actual functional capabilities of the candidate and the possibility of providing reasonable accommodation wherever feasible. Such an approach would be consistent with the World Health Organization's International Classification of Functioning, Disability and Health (ICF), the RPwD Act, 2016 and the evolving jurisprudence of the Hon'ble Supreme Court concerning substantive equality.

9.5 In light of these critical observations, the Court strongly recommends that the Department of Empowerment of Persons with Disabilities (DEPwD), in active

consultation with the Department of Personnel and Training (DoPT), urgently initiate the comprehensive policy review (as mentioned in para 4.3) to resolve these systemic classification anomalies. The DEPwD must utilize its administrative powers under Section 33(ii) of the Act to constitute the specialized joint expert committee (as mentioned in para 4.3), ensuring adequate medical and legal representation to review the central list of identified posts.

- a. The Court recommends that the Department of Empowerment of Persons with Disabilities, being the nodal department under the RPwD Act, may undertake a comprehensive review, in consultation with the Department of Personnel and Training, medical experts, disability organisations, recruiting agencies and other stakeholders, regarding the implementation of Section 34 and the identification of suitable posts under Section 33, with particular reference to recognised benchmark disabilities that presently encounter practical barriers in public employment.
- b. This joint expert committee must be mandated to convene every 3 years to periodically review and update the list of identified posts, which must be treated as an ever evolving and non-exhaustive framework, in alignment with evolving medical classifications and administrative needs. The committee shall formulate a uniform, legally backed amendment circular or executive framework that systematically integrates all twenty-one specified disabilities, including blood disorders, into active recruitment notifications and roster frameworks utilized by agencies such as the Staff Selection Commission. As mentioned in para 4.3, a permanent resolution to this multi-departmental issue cannot be indefinitely delayed by pointing to a lack of explicit committee nomenclature, and immediate executive measures must be deployed to bridge this operational divide.
- c. Considering that recruitment for Government establishments is undertaken by multiple agencies across the country, the Court recommends that the Department of Empowerment of Persons with Disabilities, in coordination

with the Department of Personnel and Training, may consider issuing suitable executive guidelines or standard operating procedures clarifying the manner in which recognized benchmark disabilities are to be assessed during recruitment, with emphasis on functional capacity, reasonable accommodation, consistency in implementation and periodic review of identified posts.

9.6 Regarding the immediate grievance of the Complainant, the Court recommends that Respondent No. 1 (SSC) and Respondent No. 2 (DoPT) jointly re-evaluate the candidacy of Mr. Suman Paul, the Complainant, against the identified vacancies. It is pertinent to note that the Complainant's cumulative impairment of 70% (certified vide UDID Card No. WB2610120210001234) is a mathematical combination of three distinct conditions under the Department's multiple disability evaluation guidelines, specifically: Dwarfism (evaluated as his primary disability at 50%), Thalassemia Major (evaluated at 30%), and Bow legs (evaluated at 22.5%). Given that Dwarfism constitutes his primary benchmark disability of 50%, which is independently recognized and covered under the locomotor disability category of Section 34(1)(c) of the Act, his co-morbid diagnosis of Thalassemia must not be treated as a barrier to selection. Since his primary impairment qualifies him for the reservation pool under clause (c), his clinical profile must be evaluated as an enabling pathway for reasonable accommodation rather than a ground for disqualification, provided he is found otherwise suitable on merit and satisfies the baseline functional requirements of the posts.

- a. Without expressing any opinion on the ultimate merits of appointment, the Court is of the view that the Complainant's candidature deserves reconsideration by the competent authority, keeping in view:
 - i. The benchmark disability certificate issued by the competent medical authority;

- ii. The fact that Dwarfism, which constitutes the primary disability, is specifically recognised under Section 34(1)(c) of the RPwD Act;
- b. The statutory obligations relating to equality, non-discrimination and reasonable accommodation under Sections 3 and 20 of the Act;
 - i. the functional requirements of the post concerned; and
 - ii. the observations recorded in this Order.

Such reconsideration shall be undertaken in accordance with law and shall not be construed as a direction to appoint the Complainant irrespective of statutory eligibility or service requirements

9.7 Subsequently, the Respondents are recommended to submit a Preliminary Progress Report to this Court within 30 days and a detailed Action Taken Report along with relevant administrative draft amendments and office circulars adhering to the abovementioned recommendations to this Court within ninety (90) days from the date of this order to ensure the equitable restoration of the statutory rights of the all the left-out disability categories (including Blood Disorders, Chronic Neurological Disorders, and Speech and Language disabilities).

- a. It is clarified that this Order shall not be construed as directing appointment of the Complainant or as enlarging the scope of reservation beyond the statutory framework enacted by Parliament. The recommendations contained herein are intended to secure effective implementation of the Rights of Persons with Disabilities Act, 2016, consistent with the constitutional principles of equality, dignity and non-discrimination.
- b. Failure by the Respondents to satisfy these recommendations or demonstrate satisfactory progress towards compliance within the stipulated timeline may compel this Court to initiate *Suo Motu*

proceedings to investigate the non-compliance and enforce the protective mandates of the Rights of Persons with Disabilities (RPwD) Act, 2016.

9.8 Consequently, the Court has determined no further intervention necessary.

10. Accordingly, the case is disposed of.

(S. Govindaraj)

Commissioner for Persons with Disabilities