



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/13826/1021/2023

In the matter of —

Complainant

Sh. Ladesh Nayak

Versus

Respondent(s)

- (1) The Chief Executive Officer, Prasar Bharti
- (2) The Director General, All India Radio
- (3) The Dy. Director General (E), All India Radio

1. Gist of the Case:

1.1 Mr. Ladesh Nayak, a person with 45% Locomoter Disability filed a Complaint dated 09.02.2023, who is an employee serving under Respondent No.3, All India Radio, Cuttack. The grievance arises from Respondent No.3's repeated non-compliance with the mandatory reservation policy for Persons with Disabilities (PwDs) under the Disability Act, 1995 and DOPT's O.M. No. 36035/3/2004-Estt(Res) dated 29.12.2005.

1.2 Despite clear directions from Respondent No.2 (DG, AIR) and the Ministry of I&B in 2013, 2014, and 2015 to consider the Applicant's case under PwD quota, Respondent No.3 failed to act, showing disregard for higher authority instructions.

The Respondent No.3 continued to delay and seek repeated clarifications even after the matter was clarified by Respondent No.2 through detailed orders dated 08.04.2022, confirming the Applicant's eligibility for promotion under PwD quota to the post of Head Clerk/Assistant. Despite these binding directions, Respondent No.3 has neither conducted the required Review DPCs nor issued necessary promotion/benefit orders, causing the Applicant harassment, loss of notional increments, and career stagnation.

1.3 When AIR, Cuttack sought clarification in 2016 and again in 2021 regarding the validity of retrospective promotion, Respondent No. 2 reiterated, vide orders dated 08.04.2022, that the Complainant is eligible for promotion under PwD quota and directed the Respondent No. 3 to conduct Review DPCs accordingly. Despite such unambiguous orders, Respondent No. 3 has neither conducted the Review DPCs as directed nor issued formal promotion orders, violating the constitutional and legal rights of the Applicant under the PWD Act, 1995, and Article 14, 16, and 21 of the Constitution of India.

2. Notice issued to the Respondents:

2.1 A notice dated 09.03.2023 was issued to the above-mentioned Respondents directing them to submit their comments, duly supported by an affidavit, on the allegations of violation of Section 34 of the Rights of Persons with Disabilities Act, 2016 read with the DoP&T Office Memorandum dated 20.12.2005, within the prescribed statutory time limit.

3. Reply filed by the Respondents:

3.1 The Respondents had sought 4 (four) weeks' time on 06.08.2023 to file their reply, however, no response was received from the Respondents.

4. Hearing (I):

4.1 A hearing in the hybrid mode was conducted on 15.05.2023 wherein the following parties were present:

1. Shri Ladesh Nayak – Complainant
2. Shri PK Pati DDG (E), AIR, Cuttack – Respondent

Proceedings: During the hearing, the Respondent sought one month's time to advance arguments in the matter. The request was considered and one month's time was granted by the Court.

5. Written Reply by the Complainant:

5.1 The Complainant, vide reply dated 29.05.2023, submitted that despite the matter being sub judice, Respondent No. 2 issued the eligibility list dated 18.05.2023 for promotion to the post of Senior Administrative Officer, wherein his name was not included. He further submitted that a draft eligibility list circulated in 2022 for promotion from Head Clerk/Assistant to Administrative Officer also excluded his name. According to the Complainant, his promotion to the post of Head Clerk/Assistant under the reservation for Persons with Disabilities ought to have been granted with retrospective effect from 25.05.2003, following his earlier ante-dated promotion as UDC w.e.f. 25.05.1998. Had the promotions been correctly granted, his name would have been included in the eligibility lists for promotion to the posts of Administrative Officer and Senior Administrative Officer. The Complainant alleged that his exclusion from the said lists was arbitrary and contrary to the disability reservation policy, particularly as no PwD candidates were reflected therein, and apprehended that holding the DPCs on the basis of the existing lists would cause him irreparable prejudice. He, therefore, prayed that the DPCs be stayed until his claim was adjudicated and his case considered under the disability reservation quota, along with such other interim reliefs as deemed appropriate.

6. Hearing (II):

6.1 The hearing in the matter was conducted on 04.02.2025 wherein the following parties were present during the hearing:

1. Mr.Ladesh Nayak - Complainant -Online
2. Mr. A.K. Verma - DDG Respondent 2 -Online
3. A.C. Subudhi, DDG, Akashvani, Cuttack -Respondent 3 - Online
4. Yogendra Singh (Deputy Director) Admin Branch- Respondent-Online

6.2 During the hearing, the Complainant, Shri Ladesh Nayak, a retired employee with disability, sought directions to the Respondents to conduct a review DPC and grant him ante-dated promotion to the post of Administrative Officer (AO) w.e.f.

30.12.2014, along with consequential promotion to the post of Senior Administrative Officer. He submitted that he joined service as LDC in 1990, became eligible for promotion as UDC in 1998 but was promoted only in 2015. He further stated that although he became eligible for promotion to the post of Head Clerk in 2006, the same was granted retrospectively only in August 2023, thereby rendering him eligible for promotion as Administrative Officer during 2013–2014. Despite repeated representations, no action was taken prior to his retirement.

6.3. The Respondents submitted that promotions are processed only after receipt of seniority lists from all 15 zones and preparation of the reservation roster, following which the DPC is convened. They also claimed that a reply had been furnished to the Complainant; however, no documentary proof was produced, and the Complainant denied having received any such communication. The Court expressed concern over the delay in processing the Complainant's claim and the Respondents' failure to maintain proper records, particularly in a matter concerning the rights of a person with disability.

7. Written Reply of the Respondent:

7.1 The Respondents vide letter dated 21.02.2025 stated that as per the recruitment rules (dated 25.05.1988), 7 years of service as Head Clerk is required for promotion to AO. With his antedated promotion, he became eligible from 11.09.2013. However, promotion depends on seniority lists prepared from all 15 administrative zones, which are still in progress.

7.2 The Cuttack Zone has complied with the directions to implement the reservation roster and conduct review DPCs, but most other zones have not. Despite reminders issued by the Directorate in 2022 and 2025, only Delhi Zone, in addition to Cuttack, has acted on these instructions.

7.3 The Directorate stated that until review DPCs are completed in all zones, the eligibility list for AO promotions cannot be finalized, as antedated promotions across zones impact the seniority positions.

7.4 It was also noted that as per DoPT OM dated 28.12.2023, reservation in promotions for PwBDs in Group 'B' posts (like AO) is applicable only from 30.06.2016. Therefore, claims for AO promotion before this date will be treated under unreserved category, not under PwBD quota.

7.5 The Directorate assured that it is making sincere efforts to resolve the matter in compliance with relevant rules and directions however it is not possible to conduct a review DPC from Head clerk to the post of Administrative officer within a period of one month therefore, they further requested to grant him atleast 03 months for compliance of order of Hon'ble Court.

8. Hearing (III):

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

S. No.	Name and designation of the Attendees	On behalf of	Mode of Attendance
1.	Mr. Ladesh Nayak	Complainant	Online
2.	Mr. Rajesh Kumar – Akashvani Radio	Respondent	Online

8.2 The Complainant, Mr. Ladesh Nayak, informed the Court that his long-pending request for reservation under the Persons with Disabilities category and antdated promotions had largely been addressed. He stated that he had been granted antdated promotions to the posts of UDC, Head Clerk, Administrative Officer, and Senior Administrative Officer and expressed gratitude to the Department for taking corrective action. However, his remaining grievance relates to the grant of arrears of pay and salary benefits corresponding to these antdated promotions.

8.3 The Respondent Department submitted that while the Complainant had been granted antdated promotions, these were only notional promotions and did not carry retrospective financial benefits, as he had not actually worked in those posts during the relevant periods. The Department further clarified that the benefits of the revised promotions would be reflected in the Complainant's pensionary benefits.

8.4 The Court sought clarification from the Respondent regarding the reasons for granting only notional promotions instead of actual promotions with financial benefits. Finding that the Department was not adequately prepared to explain the justification despite the matter being pending since February 2023 and having been heard multiple times, the Court directed the Respondent to submit a detailed written justification

within seven days explaining why only notional promotions were granted.

9. Observations and Recommendations

9.1 The Court has carefully examined the pleadings, submissions made during the hearings, and the documents placed on record. It is evident that the Complainant had been seeking consideration for promotion under the reservation earmarked for Persons with Disabilities since 2009. The records reveal that the Directorate General, All India Radio, as well as the Ministry of Information & Broadcasting, on multiple occasions had directed the Respondents to consider the matter under the disability reservation quota. The subsequent grant of ante-dated promotions to the posts of UDC, Head Clerk, Administrative Officer and Senior Administrative Officer clearly establishes that the Complainant was entitled to such consideration and that the delay in extending the benefit was attributable to administrative inaction rather than any fault on her part.

9.2. The Court further observes that the rights of persons with disabilities to equality of opportunity in public employment are protected under the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 and, subsequently, under Sections 20, 34 and 37 of the Rights of Persons with Disabilities Act, 2016. Further, DoPT O.M. No. 36035/3/2004-Estt.(Res.) dated 29.12.2005 provides for reservation in promotion for persons with disabilities and casts an obligation upon public authorities to implement the reservation policy in a timely and effective manner.

9.3 The Respondents have justified the grant of only notional promotions by relying upon the DoPT instructions governing retrospective promotions. However, no detailed justification supported by the applicable statutory provisions, executive instructions, or judicial precedents has been furnished to explain why the Complainant should be denied consequential monetary benefits when the delay in granting promotion appears to have arisen due to prolonged administrative inaction. A mechanical application of the principle of "notional promotion", without examining the circumstances that led to the delayed promotions, would defeat the beneficial object of the disability rights legislation and the principles of substantive equality. Accordingly, the Respondents are directed to pass a detailed and reasoned speaking order examining the Complainant's entitlement to arrears of pay, increments, pensionary and other consequential benefits arising from the ante-dated promotions, after duly considering the provisions of the RPwD Act, 2016, DoPT O.M. dated 29.12.2005, the subsequent DoPT instructions of 2017

and 2023, the applicable recruitment rules, and the settled judicial principles governing restoration of consequential benefits where an employee has been wrongfully denied timely promotion. In the event the Respondents conclude that full arrears are not admissible, they shall specifically address the Complainant's entitlement to notional increments, pay fixation, revision of pension, gratuity and all other retiral benefits by way of a reasoned order.

9.4 The Court also notes that the Respondents failed to furnish timely replies despite repeated opportunities, resulting in avoidable delay in the adjudication of the matter. Such delays are inconsistent with the obligations cast upon public authorities under the Rights of Persons with Disabilities Act, 2016 to ensure equality, non-discrimination and effective implementation of reservation policies. The Chief Executive Officer, Prasar Bharati, and the Director General, All India Radio, are, therefore, advised to ensure proper maintenance and implementation of reservation rosters for Persons with Benchmark Disabilities, timely conduct of review Departmental Promotion Committees wherever disability reservation claims arise, and a comprehensive review of all pending disability reservation cases across administrative units to ensure uniform implementation of the reservation policy.

9.5 The Respondents shall submit an Action Taken Report (ATR) with all the evidential documents supporting compliance with the given recommendations to this Court within three months from the date of issuance of this Order in terms of Section 76 of the Rights of Persons with Disabilities Act, 2016. Consequently, the Court has determined no further intervention necessary.

10. Accordingly, the case is disposed of.

(S. Govindaraj)
Commissioner for Persons with Disabilities