

Resource document: Compilation of notable judgements delivered by High Courts in India.

This resource document captures and encapsulates the existing position of law on rights of persons with disabilities in India. This is done through collation of the notable judgements delivered by various High Courts in India with respect to the primary legislation on the subject, the Rights of Persons with Disabilities Act, 2016. The extant legislation being fairly recent, progressive judgements of its predecessor, Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 have also been included. The judgements delivered by the various High Courts were evaluated against the following three criteria:

- a) The observations by the particular High Court in the judgement pertain to a subject matter which has not previously been dealt with by the Supreme Court and the particular judgement settles the position of law.
- b) The judgement is one where the High Court clarifies the finer details or builds upon a judgement by the Supreme Court, thereby supplementing it and aiding its implementation.
- c) The judgement is one where the High Court applies a Supreme Court judgement in a context different from the context in which the Supreme Court delivered the judgement.

Only those judgements which meet any one or more of the aforesaid criteria have been included in the present document. Care has been taken to ensure that the database contains only those rights and duties enunciated by the Court which continue to hold and are considered to be good law, in application in the respective jurisdictions in which they have been delivered. The judgements were identified through the legal research platform 'SCC Online'. This document has been prepared in plain English with due care to ensure that the essence of the Courts' observations has not been compromised. It has been prepared as such to serve as a primer for the public at large, particularly persons with disabilities in understanding the law, the rights and duties pertaining to them for their respective personal or professional requirements.

List of Abbreviations:

- **UNCRPD:** United Nations Convention on the Rights of Persons with Disabilities
- **RPwD Act, 2016 :** Rights of Persons with Disabilities Act, 2016
- **PwD Act, 1995:** Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995
- **MH Act, 2017:** Mental Healthcare Act, 2017
- **MH Act, 1987:** Mental Health Act, 1987
- **National Trust Act, 1999:** National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999
- **HC:** High Court
- **SC:** Supreme Court
- **CAT:** Central Administrative Tribunal

Serial No.	Year / bench size	Relevant provisions	Judgment	Right	Tags
1.	2023, Allahabad HC, Division Bench	PwD Act, 1995 : Section 47	<p><u>Shalilesh Kumar Shukla v. Union of India & Ors, 2023:AHC-LKO:44488-DB</u></p> <p>The Appellant was aggrieved by an order issued by the Inspector General of Police, Central Sector, Central Reserve Police Force, Lucknow where the Appellant's name was removed from the approved list of promotions for the post of Head Constable on ground of him being affected by Human Immunodeficiency Virus (HIV) Positive that changed his grade of medical category to SHAPE-2. The Appellant challenged such rejection before the Single Judge in the Allahabad HC and after such challenge was dismissed, the Appellant filed a special appeal to the HC. The HC found that the Appellant had completed 13 years of service as a Constable and was diagnosed with HIV in 2008 with his medical categorization changed to SHAPE-2 in 2009. The medical examination conducted later in 2011 declared the Appellant to fall within the SHAPE-1 category and thereafter his name was approved for promotion. However, after the annual medical review, he was again medically categorised as a SHAPE-2 employee. The State submitted that the essential condition for promotion to the post of Head Constable was the candidate's fitness to be considered under the SHAPE-1 category and the Appellant's change in medical category to SHAPE-2 allowed for the withdrawal of the Appellant's name for promotion.</p> <p>The HC found that though the Appellant was placed in the SHAPE-2 medical category, he was physically fit for duty and that a person who is otherwise fit, cannot be denied employment only on the ground that they are HIV Positive and such a principle would extend to grant of promotions.</p> <p>The HC set aside the order passed by the Single Judge and declared that the Appellant would be entitled to full benefits of promotions as were extended to those who are not affected by HIV.</p>	<ul style="list-style-type: none"> • Right of persons with HIV to job opportunities and promotions in employment. 	Employment, Discrimination, Promotion

2.	2022, Allahabad HC, Division Bench	<p>RPwD Act, 2016 : Section NA</p> <p>PwD Act, 1995 : Section NA</p>	<p>Smt. Ramkali Samajik Utthan Evan Jan Kalyan Samiti v. Union of India & Ors., 2022 SCC OnLine All 565</p> <p>The Petitioner, a society, filed a public interest litigation requesting the state of Uttar Pradesh to extend the retirement age of government employees with disabilities from 60 to 62 years, similar to the practice in the states of Punjab and Haryana. Petitioner argued that such differential treatment violated the RPwD Act, 2016, which prohibits discrimination against persons with disability. The case raised two main issues: whether the state is obligated to extend the retirement age for persons with disability and whether the Petitioner's rights under Article 14 of the Constitution of India were being infringed. The Respondent Union Government argued that the PIL in question related to a service matter within the domain of the legislature and could not be entertained. The HC accepted the Respondents' argument and held that the relief sought by the Petitioner could not be granted by the HC. Although the RPwD Act, 2016 mandates non-discrimination against persons with disability, it does not necessarily imply uniformity of service conditions across states. The HC also noted that differential treatment is not necessarily a violation of Article 14 of the Constitution of India as long as it has a reasonable basis. The HC found that the age of superannuation for persons with disabilities who are employees of the State of Uttar Pradesh cannot be compared to that of Haryana and Punjab, as they form distinct classes. Therefore, the HC held that the Petitioner's plea for differential treatment of persons with disability employees in Uttar Pradesh in terms of their age of superannuation is not tenable. The PIL was accordingly dismissed.</p>	N.A	Employment, Disability Discrimination
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3.	2019, Allahabad HC, Division Bench	<p>RPwD Act, 2016: Section 2 and 20</p> <p>PwD Act, 1995: Section 47</p>	<p>Managing Director. U.P. State Road Transport Corporation v. Suresh Singh. 2019 SCC OnLine All 7034</p> <p>The Appellant corporation filed an intra-Court appeal against judgement of the Single judge directing it to provide Respondent-employee alternate employment if found unfit to drive a bus on account of injuries suffered while driving a bus of the Appellant. The Respondent-employee was engaged by the corporation under a contract. The issue in question is whether the benefits of the PwD Act, 1995 and the RPwD Act, 2016 could be extended to contractual employees or not.</p> <p>Section 20(4) of the RPwD Act, 2016 and Section 47(1) of the PwD Act, 1995 prohibit discrimination in employment to the disadvantage of a person with disability. The Appellant corporation argued that the Single Judge had erred by considering provisions of the PwD Act, 1995 which stood repealed and that the relief granted to the Respondent-employee were as though the Respondent-employee was not a contractual employee. The Appellant argued that these two considerations ought to be enough to set aside the Single Judge's order.</p> <p>The HC noted that the PwD Act, 1995 and the RPwD Act, 2016, apply to the benefit of all classes of employees in an establishment. However, while implementing these Acts, equality should be ensured between two employees belonging to the same class, one who are persons with disability and the other without. The equality sought should be within the framework of the established class categorisation of employees.</p> <p>The HC observed that even as a contract employee, the Respondent continued to be an employee of the Appellant corporation. Consequently, the appeal was partly allowed with an observation that the corporation shall pass a fresh order treating the Respondent as an existing contract employee and assign him such other job on a contract basis, for such a period, as may be available with the corporation based on his 40% permanent physical disability.</p>	<ul style="list-style-type: none"> • Right to non-discrimination in employment of contractual employees. 	<p>Employment, Reasonable Accommodation</p>
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4.	2019, Allahabad HC, Single Judge Bench	PwD Act, 1995: Section 32 and 33	<p><u><i>Akshay Kumar Raj v. State of U.P. & Ors., 2019 SCC OnLine All 4657</i></u></p> <p>The Petitioner applied for the post of Arth Evam Sankhya Nirikshak under the person with disability quota but found out that the Respondents did not reserve any posts for persons with disability on that post. The issue in question was whether the Petitioner was entitled to relief and appointment under the reservation made for persons with disabilities on the post of Arth Evam Sankhya Nirikshak pursuant to selections conducted by UPPSC.</p> <p>The Petitioner was eligible for appointment under the reservation made for persons with disabilities, and the government orders passed in exercise of powers under Section 32 of the PwD, 1995 identified a number of posts for reservation in favour of persons with disability.</p> <p>The HC observed that the department could not escape its obligation of implementing the reservation policy under the PwD Act, 1995. Respondents' refusal to apply reservation and subsequent denial of the Petitioner's consideration for appointment was held arbitrary, illegal, and infringed upon the Petitioner's rights under the PwD Act, 1995 and fundamental rights protected by Articles 14, 16, and 21 of the Constitution of India.</p> <p>The HC allowed the writ petition and directed the Petitioner to be appointed under the reservation for persons with disability for the position of Arth Evam Sankhya Nirikshak, provided that the Petitioner fulfilled all necessary requirements.</p>	<ul style="list-style-type: none"> • Right to reservation and appointment 	Employment, Reservation
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5.	2018, Allahabad HC, Single Judge Bench	<p>RPwD Act, 2016: Section NA</p> <p>PwD Act, 1995: Section NA</p>	<p><u>Sury Prakash v. State of U.P. & Ors., 2018 SCC OnLine All 5499</u></p> <p>The Petitioner was a person with disability since birth in both his big toes, making them smaller than the expected size. This affected his ability to perform physical activities. The Respondent, the State of Uttar Pradesh argued that persons with disability cannot apply for the post of Constable as per the U.P. Police Constables and Head Constables Service Rules, 2015.</p> <p>The Petitioner submitted that he qualified the Physical Efficiency Test, and his condition did not affect his ability to perform the duties of the post. The Respondent argued that the Petitioner failed the Physical Standard Test, conducted by specialists as per the medical manual.</p> <p>The HC noted that the fact that the Petitioner practised and got over this physical disability shows his determination and his strength of will and character. Exercising its authority under Article 226 of the Constitution of India in writ jurisdiction, the HC recognised the Petitioner as a suitable candidate for the constable position. It directed the Director General of Police to reconsider the Petitioner’s case, including by constitution of a Medical Board of specialists and conducting another physical examination, if need arose.</p>	<ul style="list-style-type: none"> • Right to employment and equal opportunity 	<p>Employment, Medical Board, Non-Discrimination</p>
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6.	2016, Allahabad HC, Single Judge Bench	<p>RPwD Act, 2016: Section NA.</p> <p>PwD Act, 1995: Section NA</p>	<p>Jitendra Bahadur Singh v. State of U.P. & Ors., 2016 SCC OnLine All 1731</p> <p>The Petitioner filed a writ petition seeking a direction from the Respondent authorities to appoint him on the post of Uttar Pradesh Subordinate Agriculture Services, Grade-III (Technical Assistant Group 'C') under the general/persons with disability category. The advertisement for the post indicated that a total of 6628 posts were advertised, out of which 253 posts were identified for persons with disabilities. The Petitioner qualified the written test and participated in an interview, securing 245 marks. The last selected candidate under the persons with disability category had secured 165 marks. However, the Petitioner was not selected for the post on the ground that he was affected by dual disabilities and there was no such sub-category. He contended that his non-selection on the ground of dual disability was unjustified and arbitrary.</p> <p>Relying on precedents, the HC allowed the writ petition and the Respondent authorities were directed to appoint the Petitioner on the post of Uttar Pradesh Subordinate Agriculture Services, Grade-III (Technical Assistant Group 'C') under the persons with disability category.</p>	<ul style="list-style-type: none"> • Right to reservation and appointment for persons with (dual) disabilities. 	<p>Employment, Dual Disability, Reservation</p>
7.	2015, Allahabad HC, Division Bench	<p>PwD Act, 1995: Section 32, 33 and 36</p>	<p>Dhrav Kumar Singh v. State of U.P. & Ors., 2015 SCC OnLine All 9474</p> <p>The UPPSC advertised 372 posts for Assistant Prosecution Officer. The Petitioner applied for the position under the General Category (Persons with Disability)- 'BL' category, which means both legs are affected but not arms. The Petitioner didn't qualify the preliminary examination. The Petitioner contended before the HC that he had scored 79 marks, which were more than the cut-off marks for general category persons with disability quota, i.e. 69 marks and as such the Respondents erred and acted contrary to the advertisement. The UPPSC had categorically stated that out of total 372 vacancies, 11 vacancies were reserved under the persons with disability quota out of which 3 were reserved for OA, 4 for PB and 4 for PD. The Respondents argued that the Petitioner didn't fall under any of these categories. The issue in question thus was whether the Petitioner's candidature could be accepted under 'persons with disability category'.</p> <p>The HC observed that the advertisement was unambiguous and the Petitioner's disability did not find a place in it. The HC also cited previous judgments, stating</p>	<p>N.A.</p>	<p>Employment, Vacancies, Reservation</p>

			that the concept of vacancy has no relevance in operating the percentage of reservation and that the government must compute the number of vacancies available and identify the posts for persons with disabilities. The HC dismissed the writ petition, finding no good ground to interfere in the matter.		
8.	2015, Allahabad HC, Division Bench	RPwD Act, 2016: Section NA PwD Act, 1995: Section NA	<p>Suryamani v. State of U.P. & Ors., 2015 SCC OnLine All 6848</p> <p>The Petitioner applied for the position of Technical Assistant in the Subordinate Agriculture Service, Grade III, under the OBC person with disability category. For the persons with disability category, there were four sub-categories: i) OL-one leg affected (right or left); ii) OA-one arm affected (right or left); iii) PD-partially deaf; iv) PB-partially blind.</p> <p>The Petitioner scored 217 marks which were more than the marks obtained by the last selected candidate in the said category and out of the 252 posts reserved for persons with disability, 225 candidates were offered appointment with there remaining 27 vacancies to be carried forward, on account of there being no other eligible persons.</p> <p>The issue in question was whether the Petitioner's candidature could be accepted under the persons with disability category on account of the fact that he had dual disability, OL and OA.</p> <p>The HC observed that no evidence was presented to indicate that dual disability would lead to disqualification or ineligibility for the position in question. Additionally, a new certificate was also issued by the Medical Board declaring that only one leg of Petitioner was affected and he met the physical requirements for discharge of duties. Based on this, the HC allowed the writ petition and directed the Respondent to offer appointment to Petitioner.</p>	<ul style="list-style-type: none"> • Right to reservation and appointment for persons with (dual) disabilities. 	Employment, Reservation, Dual Disability

9.	2010, Allahabad HC, Division Bench	PwD Act, 1995 : Section NA	<p>U.P. Vishesh Shikshak Association v. State of U.P. Secretary Basic Education & Ors., MISC. BENCH No. 5622/ 2010. order Dt. 17 June 2010</p> <p>The Petitioner filed a PIL contending that the pupil-teacher ratio so far as specialised teachers and children with disabilities were concerned was not adequate and claimed that the government Circular on Integrated Education for Disabled Children Scheme mandates a pupil-teacher ratio of 8:1. It also claimed that the Rehabilitation Council of India Act, 1992 imposed a statutory duty on the State to make arrangements for the adequate number of teachers for persons with disabilities.</p> <p>The HC observed that the right to education and right to livelihood being the fundamental rights enshrined under Articles 21 and 21-A of the Constitution of India, the State Government has to make all efforts to provide necessary assistance to all persons with disability and directed the authorities to take necessary steps.</p>	<ul style="list-style-type: none"> • Right to Education 	Inclusive Education, Special Educator
10.	2021, Andhra Pradesh HC, Division Bench	PwD Act, 1995: Section 33	<p>K. Lazar Babu v. Andhra Pradesh Public Service Commission & Ors., 2021 SCC OnLine AP 2205</p> <p>The Petitioner, a person with disability who applied for the post of Assistant Motor Vehicle Inspector (AMVI) in 2008, was not appointed as no reservation had been provided for the said post. The Andhra Pradesh Public Service Commission (APPSC) had exempted the application of rule of reservation under Section 33 of the PwD Act, 1995 to the said post. The HC held that Rule 5(a) of the Andhra Pradesh Transport Subordinate Service Rules, 1994 which prescribed no appointment for the post of AMVI in direct recruitment for persons with disability, is ultra vires the PwD Act, 1995 and creates hostile discrimination violative of Article 14 of the Constitution of India. The HC directed the Respondents to appoint the Petitioner to the post of AMVI in any available or future vacancies, in accordance with law, by applying the rule of reservation under Section 33 of the PwD Act, 1995.</p>	<ul style="list-style-type: none"> • Right against arbitrary exemption of posts from policy of reservation. 	Employment, Reservation

11.	2022, Gauhati HC, Single Judge Bench	PwD Act, 1995: Section 32 and 33	<p><u>Saidur Rahman v. State of Assam & Ors., 2022 SCC OnLine Gau 251</u></p> <p>The Petitioner belonged to the General category and is a person with hearing disability to the extent of more than 60%. The Petitioner sought direction from the HC for appointment against the quota reserved for the person with disabilities category candidates for the post of Veterinary Officer/block Veterinary Officer in Class-II for the Assam Public Service Commission (APSC). The Petitioner's name was not included in the select list prepared for appointment to such post. The Respondent mentioned that there were no candidates belonging to the person with disability category belonging to OBC/MOBC and ST(H) category and hence no recommendation could be made for such a quota. The Single Judge had given an order in favour of the Respondents. The HC considered the question of whether the Respondents were justified in reserving posts meant for persons with disability candidates to be filled up only by candidates belonging to OBC/MOBC/ST(H). The HC emphasised that the PwD Act, 1995 does not make any discrimination amongst persons with disabilities on the basis of caste, creed and religion in the matter of opportunities of employment. It held that the Respondents had a statutory obligation to identify posts to be reserved for persons with disability where the mandate of such statute over and above any reservation based on caste, creed and religion. The HC set aside the Single Judge's order and directed the Respondents to consider the case of the Petitioner for appointment in the post of Veterinary Officer/Block Veterinary Officer against persons with disabilities quota.</p>	<ul style="list-style-type: none"> • Right to have not less than 3% vacancies declared which are above any reservation based on caste, creed and religion. 	Employment, Horizontal and Vertical Reservation
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12.	2019, Gauhati HC, Division Bench	<p>RPwD Act, 2016 : Section 33 and 34</p> <p>PwD Act, 1995 : Section 32 and 33</p>	<p>Nagaland Public Service Commission v. Toviholi Swu & Ors., 2019 SCC OnLine Gau 5365</p> <p>The Respondent had applied for the posts of Extra-Assistant Commissioner and Secretariat Assistant in pursuance of an advertisement by the Government of Nagaland from 2018, but the said advertisement did not identify the posts and services reserved for persons with visual disability among the category of persons with disability. The Respondent challenged the advertisement and the Single Judge did not find merit in the argument of the Appellants that the advertisement was based on an earlier Notification from 2008 which did not require the identification of posts to be reserved for persons with disability and therefore is not contrary to the provisions of RPwD Act, 2016 and gave directions in favour of the Respondent.</p> <p>The Appellant-State appealed against the order of the Single Judge and the HC considered the question of whether the Appellants denied persons with disability their right of identification of posts reserved for them under Section 33 and 34 of the RPwD Act, 2016.</p> <p>The HC held that the 2008 Notification issued by the State Government was according to Section 32 and 33 of the PwD Act, 1995 which stood repealed after RPwD Act, 2016 was enforced. The HC stated that the advertisement was published in 2018 and therefore must be in consonance with the RPwD Act, 2016. The RPwD Act, 2016 directs the State to identify not less than 4% of the total number of vacancies in the cadre strength to be reserved for persons with disabilities. The HC directed the Appellant to identify posts reserved for persons with disability and declare results as mandated under Section 33 and 34 of the RPwD Act, 2016.</p>	<ul style="list-style-type: none"> • Rights to have reservations for persons with disability category 	<p>Employment, Reservation</p>
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13.	2019, Gauhati HC, Single Judge Bench	RPwD Act, 2016 : Section 39	<p>Arman Ali v. Union of India & Ors., 2019 SCC OnLine Gau 4822</p> <p>The Petitioner was a disability rights advocate with cerebral palsy which reduced mobility in his lower limbs. The Petitioner wished to seek Gold's Gym's facilities where, after the initial derogatory treatment, the Petitioner was asked to pay an additional amount to the gym because the gym would need to provide a personal trainer on account of his disability. The Petitioner filed a writ petition claiming that the Respondents violated right to access and equal participation guaranteed under the PwD Act, 1995.</p> <p>The Respondents argued that Gold's Gym never discriminated against the Petitioner and that it was not a "State" or "other authority", rather a private entity and therefore the writ petition was not maintainable.</p> <p>The HC held that provisions of the RPwD Act, 2016 are applicable not only to Government facilities but private entities as well. The HC found that the Respondents failed in understanding the importance or significance of the RPwD Act, 2016 or the previous PwD Act, 1995. The Respondents violated Petitioner's rights as a person with disability and were directed to pay Rs. 50,000/- each to the Shishu Sarothi (the Petitioner was the Executive Director of this centre established at Gauhati) which would be used for the benefit of children with disabilities in their classes. The HC also directed the Commissioner and Secretary, officers and employees serving in the Social Welfare Department, Government of Gauhati to organise awareness and sensitization programs regarding various aspects of rights of persons with disability within the scope of Section 39 of the RPwD Act, 2016.</p>	<ul style="list-style-type: none"> • Right to have the right to access and to equal participation. • Private entities are within the ambit of the RPwD Act, 2016 therefore, have the same obligations as the State. 	Discrimination, Dignity, Reasonable Accommodation
14.	2019, Gauhati HC, Single Judge Bench	RPwD Act, 2016: Section 2, 3 and 9	<p>Dr. Netramoni Kakati v. State of Assam & Ors., 2019 SCC OnLine Gau 5649</p> <p>The Petitioner's son, a person with autism spectrum disorder and intellectual disability required constant supervision and care by the parents. Petitioner, an Assistant Professor in Gauhati Medical College and Hospital, Guwahati was transferred to Assam Medical College and Hospital, Dibrugarh. Petitioner filed a representation before the authorities for allowing him to remain in Guwahati. Having failed to receive any positive response from the authorities, the Petitioner approached the HC, and the HC directed the authorities to consider his case sympathetically taking into account his son's medical condition and accordingly disposed of the writ petition. However, the authorities issued the</p>	<ul style="list-style-type: none"> • Government employees who are care-givers of persons with disabilities may be exempted from routine 	Reasonable accommodation, Transfer

			impugned order rejecting the Petitioner's representation and directing him to proceed to the Assam Medical College and Hospital at Dibrugarh. The Petitioner again went to HC with a writ petition challenging the order published by the authorities. The HC held that the impugned order was issued without considering the relevant facts and set it aside. The earlier transfer order was also not to be given effect to, and the Petitioner was allowed to remain in the present place of posting at Guwahati. The HC held that transfer orders cannot be said to be not a part of good governance which involves sympathetic consideration of human problems and not merely steadfastly adhering to rules.	exercise of transfer.	
15.	2018, Gauhati HC, Single Judge Bench	PwD Act, 1995: Section 32 and 33	<p><u>Begum Sultana Rajia & Ors. v. State of Assam & Ors., 2018 SCC OnLine Gau 1458</u></p> <p>Petitioners, persons with hearing disability had appeared for the Teachers Eligibility Test (TET) conducted by the Elementary Education Department, Government of Assam in 2011. However, even after emerging successful, they were excluded from appearing before the Medical Board under the impugned Notification which stated in one of the clauses that persons with hearing disability are not eligible for appointment as Teacher/Assistant Teacher as per Government norms.</p> <p>Petitioners contended that Section 33 of PwD Act, 1995 listed 3 categories of disabilities, including hearing disability, entitled to the benefit of reservation of posts. They argued that advertisements for the posts also mentioned that posts would be reserved for candidates with disabilities as per Government norms and having done so, the Respondents ought not to have ousted one category of candidates from the zone of consideration, that too after completion of the interview process, as that would amount to changing the rules of the game after the selection process had been completed; besides being violative Article 14 and 16 of the Constitution of India.</p> <p>The HC found that the failure to comply with a statutory provision caused injustice to deserving beneficiaries besides violation of their fundamental right under Article 14 of the Constitution of India. It ordered the Respondents to send the Petitioners to the State Level Medical Board for verification of their physical disability and appointed them to the six vacant assistant teacher positions if they met the eligibility criteria. The HC emphasised that at least 3% of vacancies must be filled by individuals with disabilities, as specified in the PwD Act, 1995, highlighting that the requirement applied to all vacancies and not just those already identified.</p>	<ul style="list-style-type: none"> • Right to non-discrimination in matters of employment. • Right to vacancies reserved for persons with disabilities. 	Employment, Non-Discrimination, Reservation

16.	2018, Gauhati HC, Single Judge Bench	PwD Act, 1995: Section 32	<p><u>Md. Nekib Hussain v. Gauhati High Court & Ors., 2018 SCC OnLine Gau 188</u></p> <p>The case pertains to an advertisement issued by the Gauhati HC on November 26, 2014, inviting applications for 12 vacant Grade-IV posts that included positions for Court Attendant, Lawn Attendant, Farash, Room Attendant, and Peon. The Petitioner in this case applied for the position under the category of 'person with disabilities'. However, the advertisement did not reserve any positions for candidates with disabilities, despite indicating the minimum and maximum age for such candidates. The Petitioner argued that the advertisement was not in compliance with the provisions of the PwD Act, 1995.</p> <p>The HC agreed with the Petitioner that the advertisement was not in compliance with the PwD Act, 1995, as it did not reserve any positions for persons with disabilities.</p>	<ul style="list-style-type: none"> • Right to have reservations in all government posts. 	Employment, Reservation
17.	2018, Gauhati HC, Single Judge Bench	PwD Act, 1995: Section NA	<p><u>Bhargav Dutta v. Union of India & Ors., 2018 SCC OnLine Gau 989</u></p> <p>The case in question pertains to a Notification issued by Oil India Limited in 2012 for a special recruitment drive to fill backlog vacancies of persons with disabilities. The Petitioner, a person with hearing disability, applied against a post reserved for persons with disabilities and was called for an interview/viva-voce test. However, during the interview, the Petitioner was unable to understand the questions as there was no sign language interpreter. As a result, the Petitioner was unable to qualify in the viva-voce test.</p> <p>The Petitioner filed a petition seeking a direction to re-conduct the interview/viva-voce test with the help of a sign language interpreter. The HC held that failure to provide a sign language interpreter during the interview violated the Petitioner's rights under the PwD Act, 1995. The HC noted that the objective behind the PwD Act, 1995 is to integrate persons with disabilities into society and ensure their economic progress. The HC considered the low number of persons with disabilities in government employment, much below 3% and observed that barriers to their entry must be scrutinised by rigorous standards within the legal framework of the PwD Act, 1995.</p>	<ul style="list-style-type: none"> • Right to reasonable accommodation in the employment selection process. 	Employment, Reasonable Accommodation, Selection Process.

18.	2017, Gauhati HC, Division Bench	PwD Act, 1995 : Section 33	<p><u><i>Kamal Krishna Mishra v. State of Assam & Ors., 2017 SCC OnLine Gau 999</i></u></p> <p>The Appellant, a person with blindness in his left eye since birth, applied for the post of Sub-Inspector of Food & Civil Supplies and Consumer Affairs Department. He applied for the benefit under the PwD Act, 1995 but was not considered for the position as the selection process was limited only to persons with locomotor disability. Against this, he filed a writ petition which was dismissed.</p> <p>The Appellant then filed an appeal where the HC held that he is eligible to be considered under Section 33 of the PwD Act, 1995, which mandates that all establishments must reserve vacancies for persons with disabilities.</p> <p>The HC noted that all reserved posts under the PwD Act, 1995 should not be reserved for only one category of disability, and those with low vision/blindness and hearing disabilities should not be ignored in the selection process. The HC disposed of the appeal by directing the State Respondents to allow the Appellant to serve as sub-inspector of Food & Civil Supplies and Consumer Affairs Department.</p>	<ul style="list-style-type: none"> • Right against discrimination on the basis of disability. • Right to reservation and equal opportunities to all persons with disabilities. 	Employment, Non-Discrimination, Reservation
19.	2016, Gauhati HC, Single Judge Bench	PwD Act, 1995: Section 32, 33 and 36	<p><u><i>Dipamoni Kalita v. State of Assam & Ors., 2016 SCC OnLine Gau 55</i></u></p> <p>The Petitioner, a person with 40% disability was aggrieved by the refusal of the State-Respondents to appoint him to the post of Assistant Teacher in the Upper Primary Schools of Lakhimpur District against the seats reserved for persons with disabilities. The Petitioner's name was at serial no. 23 in the provisional selection list in the person with disability category but later upon the release of the final selection list, the Petitioner's name was not there. The Petitioner filed a writ petition to which the Respondents-State argued on three accounts.</p> <p>The first argument of the Respondents pertained to the wrong calculation of marks by the District Selection Committee, where an additional 40 marks were added to the Petitioner's total score instead of treating the Petitioner as a candidate as a person with 40% physical disability. This anomaly was fixed and the Petitioner's total score fell below the cut-off in merit for persons with disability which is why her name was not included in the final list of selected candidates. The second argument of the Respondents was that there were already two candidates who had been selected under the persons with disability</p>	<ul style="list-style-type: none"> • Right to get reservations for employment. 	Employment, Eligibility, Reservation, Vertical and Horizontal Reservation

			<p>category. The third line of argument for the Respondents relied on the idea that there is a horizontal reservation (applicable to persons with disability) which stands in contradiction to the 50% ceiling for vertical reservation (applicable to SC/ST and OBC category).</p> <p>The HC held that the inaction of the Respondents in not selecting the Petitioner for appointment is arbitrary and contrary to the provisions of the PwD Act,1995. Regarding the issue of miscalculation of marks and the issue of already filled positions for the person with disability category, the HC held that the Respondents had not filled up any vacancy for persons with disability for the post of Assistant Teacher of Upper Primary School, Lakhimpur District. The HC also held that the reservation for persons with disabilities has nothing to do with the 50% ceiling for the reservation given to SC/ST/OBC category and therefore rejected all arguments of the Respondents. The HC directed that the Petitioner would be assigned to the post of Assistant Teacher of Upper Primary School, Lakhimpur District after police and medical verifications.</p>		
20.	2021, Bombay HC, Division Bench	<p>RPwD Act, 2016 : Section 2, 3, 20, 21, 33 and 34</p> <p>PwD Act, 2016 : Section 32, 33 and 38</p>	<p><u><i>Dharmendra Ravipratap Singh v. Municipal Corporation. for Greater Mumbai & Ors., 2021 SCC OnLine Bom 2777</i></u></p> <p>The Petitioner, a person with 100% hearing disability was appointed in the post of 'labour' by Respondent No. 1 through a special recruitment campaign for persons with disability. However, his services were subsequently terminated on the ground that he misrepresented that he fulfilled the eligibility criteria at the time of application for the post. The Petitioner contended that the impugned termination order was passed arbitrarily without giving any opportunity of hearing to the Petitioner.</p> <p>It was held that the termination order was illegal, violative of the principles of natural justice and Articles 14 and 21 of the Constitution of India. The HC quashed the order and directed the Respondents to restore Petitioner's services in the post of labour with continuity of service and all consequential benefits, including arrears of salary. The HC held that the eligibility criteria for the post of Labour included being able to read, write, and speak in Marathi language, but this condition would not be applicable to the Petitioner as he is a person who is 100% deaf and hard of hearing. The HC further observed that the special recruitment campaign for persons with disability was enacted for the protection of the rights of persons with disability and to create a barrier-free environment for them.</p>	<ul style="list-style-type: none"> • Right against illegal termination . 	<p>Employment, Natural Justice, Eligibility, Reasonable Accommodation</p>

21.	2020, Bombay HC, Division Bench	RPwD Act, 2016: Section 20 PwD Act, 1995: Section 47	<p>Vikas v. State of Maharashtra & Ors., 2020 SCC OnLine Bom 801</p> <p>The Petitioners were drivers with MSRTC whose services were terminated on the ground that they were diagnosed with colour vision deficiency. They were not provided with alternative jobs or salaries for over two years. Their requests for alternate employment were rejected by placing reliance on a 2016 MSRTC Circular. Petitioners challenged it as being ultra vires of Section 20 of the RPwD Act, 2016.</p> <p>The HC ruled that Clause 11 of the impugned Circular was arbitrary and illegal, and the Petitioners were entitled to alternative jobs and back wages. The HC issued guidelines for MSRTC to complete medical examinations and disability certifications, provide alternative positions, pay back wages for the entire period, and implement these guidelines in their entirety.</p>	<ul style="list-style-type: none"> • Right to be absorbed in alternate jobs and not be illegally terminated. 	Alternate Employment, Reasonable Accommodation
22.	2019, Bombay HC, Single Judge Bench	RPwD Act, 2016: Section 14, 34, 80 and 82	<p>Member Secretary, District Selection Committee, District Health Officer, Zilla Parishad, Akola & Anr. v. Sangita Trambakrao Puri & Anr., 2019 SCC OnLine Bom 901</p> <p>In this case, the District Selection Committee of the Zilla Parishad and the Chief Executive Officer of the Zilla Parishad challenged an order passed by the Commissioner for persons with disabilities directing them to appoint a candidate for the post of Nursing Officer (female). The Petitioners denied the appointment to the candidate based on an opinion given by the concerned department of the State.</p> <p>The Commissioner relied on the relevant provision of the RPwD Act, 2016 which specifies the classes for whom the appropriate government is required to reserve vacancies. The Commissioner found that the candidate was affected by a disability that could be placed under Section 34(1)(c) of the RPwD Act, 2016 and held in favour of the candidate.</p> <p>The HC found that the Petitioners could not deny appointment to the candidate based on an opinion given by the concerned department of the State. The HC noted that the appropriate government is required to reserve vacancies for certain classes as specified under Section 34(1)(c) of the RPwD Act, 2016 and that the reservation has to be for broader specific class identified therein. The</p>	<ul style="list-style-type: none"> • Right to have reservations not limited to a particular category. • Right against discrimination on the basis of disability. 	Employment, Non-Discrimination, Reservation

			HC observed that all posts of nursing officer (female) could not be permitted to be reserved for persons affected by disability only of a particular kind.		
23.	2018, Bombay HC, Division Bench	RPwD Act, 2016 : Section 18 and 20(3)	<p>State of Maharashtra & Ors v. Suhas Shreepad Atre & Anr., 2018 SCCOnLine Bom 16565</p> <p>The Respondent, a person with a 53% disability to his left hand, joined service in 1983 as a Laboratory Assistant. The Respondent alleged that he was entitled to a promotion and despite completing 12 years of service, was not promoted. Under the Assured Career Progression Scheme, the Respondent was given benefit of a promotional post from 1995, post which the Respondent worked another 12 years for which the State did not give a reciprocal pay-scale increase till 2005. The State adopted a stand and initiated steps to recover the amount given to the Respondent on ground that the post was isolated. The Respondent approached the Commissioner (Disability) whose order was challenged before the HC by the Petitioner-State. The Respondent argued that he was discriminated against due to his disability, and the Commissioner's order in his favour should not be interfered with. The Respondent further contended that he retired in March, 2018 and the State's actions to recover the increased pay-scale were violative of provisions of the RPwD Act, 2016.</p> <p>The HC held that under Section 20(3) of the RPwD Act, 2016 the Commissioner (Disability) could exercise powers in case a Government Employee was being discriminated against on grounds of disability and the Respondent had given his services to the State since 1983. The HC stated that the Petitioner-State was not entitled to recover the amount disbursed to the Respondent and directed the Petitioner-State to complete the Respondents's pension papers, if not completed earlier.</p>	<ul style="list-style-type: none"> Right to get pay-scale increased reciprocal to the promotion. 	Non-Discrimination, Employment, Promotion, Pay-Scale Increase
24.	2018, Bombay HC, Division Bench	RPwD Act, 2016 : Section 3(1)	<p>High Court On its Own Motion v. State of Maharashtra & Ors., 2018 SCC OnLine Bom 21221</p> <p>The HC in this case took Suo Motu Cognizance of the poor condition of roads in the state of Maharashtra which caused unnecessary distress to the public and put them in danger.</p> <p>The HC stated that with respect to Section 3(1) of the RPwD Act, 2016, it is the obligation of the government to ensure that persons with disability have the</p>	<ul style="list-style-type: none"> Right to travel safely and independently. 	Accessibility, Public Transport

			right to equality and life with dignity as enshrined under Article 21 of the Constitution of India. The HC emphasised that the provisions laid down for the maintenance of roads and potholes are made taking into consideration of RPwD Act, 2016 and directed the local authorities to do everything possible so that the rights of persons with disabilities are protected, including introduction of additional measures to cater to their specific needs.		
25.	2018, Bombay HC, Single Judge Bench	PwD Act, 1995 : Section 2(t) and 47	<p>General Manager of B.E.S.T. Undertaking v. Mohammad Ramjan M. Shahaban & Anr., 2018 SCC OnLine Bom 912</p> <p>The Petitioner challenged an order passed by the Commissioner, Handicapped Welfare, Maharashtra State passed an order directing the Petitioner to engage Respondent No. 1, a driver who acquired a disability during his service, in some other post with the same pay scale and service benefits.</p> <p>The HC held that the Commissioner has the power to look into complaints with respect to the matters relating to deprivation of rights and to redress grievances effectively. The HC also held that a person does not have to be certified as a 'person with disability' under Section 2(t) of the PwD Act, 1995 to claim benefits of Section 47 of the PwD Act, 2016. The HC further held that an employee who acquire a disability during his service is protected under Section 47 of the PwD Act, 1995 and the employer has a statutory obligation to protect such employees, noting that the clear mandate of Section 47 is to shift the employee to another post with the same pay scale and service benefits, or to keep him on a supernumerary post until such other post is available or until he attains the age of superannuation, whichever is earlier.</p>	<ul style="list-style-type: none"> • Certification as a 'person with disability' is not mandatory. • Right to be protected against termination on account of disability acquired during service. 	Employment, Termination, Reasonable Accommodation
26.	2015, Bombay HC, Single Judge Bench	PwD Act, 1995 : Section 2	<p>Dattatraya Raghunath Kobarne v. Maharashtra State Road Transport Corporation & Anr., 2015 SCC OnLine Bom 6490</p> <p>The Petitioner, an award-winning driver with the Maharashtra State Road Transportation Corporation (MSRTC) suffered a paralytic stroke while on duty. Subsequently, after his medical leave he was neither given work nor wages, he was directed to obtain a fitness certificate from a civil surgeon and the Respondent refused to allot him duties until the medical certificate was received in a specific format. The Petitioner then preferred a complaint with the Industrial Court which granted him wages for a certain period, but not for the period of his medical unfitness. The Petitioner challenged this before the HC, arguing that he</p>	<ul style="list-style-type: none"> • Right to get wages for periods of medical unfitness. 	Employment, Reasonable Accommodation, Dignity.

			<p>could not have been allotted the duty of a driver as he was medically unfit and that the Respondents could have pragmatically accommodated him on a light job till the medical procedures were completed.</p> <p>The HC noted that persons with disability deserve a dignified status in society and that recognition of their human dignity serves as a reminder that they have a stake in and a claim on society. The HC held that the view taken by the Industrial Court was pedantic and not pragmatic. The HC partially allowed the petition and directed the Respondent to treat the period of medical unfitness as "on leave" and pay the Petitioner his salary.</p>		
27.	2013, Bombay HC, Single Judge Bench	PwD Act, 1995 : Section 47	<p><u>Maharashtra State Road Transport Corporation, Wardha v. Diwakar Madhukarrao Malkapure & Ors., 2013 SCC OnLine Bom 1634</u></p> <p>The Respondent was working as a driver with the Maharashtra State Road Transport Corporation. During the course of his employment, he was referred to the medical officer for a visual acuity test and was declared unfit to drive vehicles. After this, the Petitioner issued a letter terminating the Respondent's service, without offering him an alternate job. The same was challenged by the Respondent who argued that it violated Section 47 of the PwD Act, 1995.</p> <p>The HC, agreeing with the Respondent, held that Section 47 of the PwD Act, 1995 mandated the employer to provide alternative employment to an employee who has acquired a disability during his service, or if the same is not possible, then provide a supernumerary post until a suitable post is available. It held that employees cannot be terminated on the ground that an employee is unfit, since the employer is obligated to accommodate them in a supernumerary post until a suitable one becomes available. The HC then imposed exemplary costs on the Petitioner.</p>	<ul style="list-style-type: none"> • Right to be protected against termination on account of disability acquired during service. • Duty of employer to accommodate. 	Employment, Termination, Reasonable Accommodation
28.	2011, Bombay HC, Division Bench	PwD Act, 1995 : Section 47(2)	<p><u>Union of India & Ors. v. Pramod Sadashiv Thakre, 2011 SCC OnLine Bom 1407</u></p> <p>The Respondent, a Civil Mechanical Transport Driver, was admitted into service in 2003 after being deemed medically fit. However, in 2005 he was terminated from service because he was found to be affected by colour vision deficiency. The Respondent assailed his termination before the CAT on the ground of being violative of Section 47(2) of PwD Act, 1995 which prohibited termination of services of an employee on the sole ground of incurring a disability. Respondent</p>	<ul style="list-style-type: none"> • Right to not be terminated on grounds of disability. • Right against termination 	Employment, Termination, Probation, Temporary Employment

			<p>was successful and obtained a favourable order which Petitioner State challenged before the HC.</p> <p>Petitioner argued that the defence of Section 47 of the PwD Act, 1995 cannot be claimed by the Respondent since the disability was not acquired during the course of the employment, but was rather congenital. The HC observed that the Petitioner failed to prove that colour vision deficiency is a congenital disability and cannot be acquired later in life. Additionally, the Petitioner had employed the Respondent after a due medical fitness test certification, implying that the Respondent was not affected by any disability.</p> <p>The HC did not accept the argument of the State that Section 47 of the PwD Act, 1995 did not apply to temporary employees on probation, observing that Section 47 of the PwD Act, 1995 did not make any distinction in this regard, and held that the purpose of the PwD Act, 1995 is to protect all employees who may be terminated for incurring a disability.</p>	<p>applicable to temporary employees on probation.</p>	
29.	2010, Bombay HC, Division Bench	PwD Act, 1995 : Section 47	<p><u>Edward Swalin D'cunha v. Commissioner for Persons with Disabilities, Pune & Anr., 2010 SCC OnLine Bom 415</u></p> <p>Petitioner was an employee with Shipping Corporation of India (SCI), while on duty, developed intellectual disability and obtained a medical certificate indicating that he was diagnosed with Schizophrenia and that the disability amounted to 70%. Consequently, he requested for an onshore job but the same was rejected, following which, believing he had no other option, the Petitioner resigned. Later, on learning that he was protected under Section 47 of the PwD Act, 1995 and that it was his right and the duty of his employer to provide him with a suitable job onshore, he filed a complaint against his employer under Section 62, PwD Act, 1995 with the Commissioner for Persons with Disabilities, Pune alleging discrimination. SCI opposed the same urging that the resignation was given by free will and thus they were not bound to provide him with employment. The Commissioner ruled in favour of SCI which was challenged by the Petitioner before HC.</p> <p>The HC, rejecting the SCI's contentions held that the question that needs to be considered is whether the Petitioner would have resigned even if he was offered an onshore job. Answering the same in the negative, the HC held that the resignation thus cannot be termed to have been given voluntarily. The HC, apart</p>	<ul style="list-style-type: none"> • Right to reasonable accommodation including appropriate job posting. 	Employment, Wrongful Termination, Voluntary Resignation, Reasonable Accommodation

			from Section 47 of the PwD Act, 1995 also referred to Article 41 of the Constitution of India that deals with DPSPs and lays down that state shall make effective provisions for securing the right to work, inter alia, in cases of disablement. SCI was directed to offer the Petitioner an on-shore job.		
30.	2022, Chhattisgarh HC, Division Bench	RPwD Act, 2016: Section 2	<p><u>Anjali Sonkar v. State of Chhattisgarh & Ors., 2022 SCC OnLine Chh 2696</u></p> <p>The Petitioner, a student who appeared in NEET-2022 sought admission under the persons with disabilities quota for MBBS in a government medical college in Chhattisgarh. The State disallowed the Petitioner's admission under the said category citing State Government's 2018 Rules according to which a disability certificate would be considered acceptable only if issued by the State Medical Board in the prescribed format. Petitioner possessed a certificate of disability issued by the District Medical Board, Rajnandgaon, which showed that she had sustained 40% permanent locomotor disability due to an electric shock.</p> <p>The HC held that the Petitioner was eligible for admission under the persons with disability category as she possessed a certificate of disability showing that she had sustained 40% permanent locomotor disability. The minimum percentage of disability required for availing reservation under the person with disability category was 40% (Benchmark Disability). The HC further held that the 2018 Rules were ultra vires RPwD Act, 2016, as Rule 5(2)(b)(i) disqualified any person with a disability in the upper arm. The HC also noted that the certificate issued by the State Medical Board was not in conformity with the Notification issued by the Central Government, and the Board did not discharge its duty in verifying the authenticity of the disability certificate.</p>	<ul style="list-style-type: none"> • Right to avail reservation for persons with benchmark disabilities. 	Education, Reservation, Disability Certificate
31.	2022, Chhattisgarh HC, Single Judge Bench	RPwD Act, 2016: Section 20, 79 and 80.	<p><u>Dharmraj Prasad v. State of Chhattisgarh & Ors., 2022 SCC OnLine Chh 596</u></p> <p>The Petitioner in this case was a person with 41% disability who had been seeking a transfer to a school within the District Durg, which is his home district. Despite repeated requests to the employer, the Petitioner did not receive any relief in this regard, prompting him to approach the HC for an appropriate direction.</p> <p>The HC noted that Section 20 of the RPwD Act, 2016 provides for non-discrimination in employment and allows the appropriate government to frame policies for posting and transfer of persons with disabilities. The General</p>	<ul style="list-style-type: none"> • Right to get posting at a place of convenience. 	Employment, Transfer, Reasonable Accommodation

			<p>Administration Department, Govt. of Chhattisgarh in 2010 passed an order that persons with disabilities under government employment be considered for posting at their birthplace or home district, as far as practicable.</p> <p>The Disability Commissioner in the State of Chhattisgarh also recommended in favour of the Petitioner, directing the Directorate of Public Instructions to take appropriate steps ensuring accommodation of the Petitioner at a place in and around Durg. The HC also directed the Respondents to look into the Petitioner's grievance and take appropriate steps within three months.</p>		
32.	2021, Chhattisgarh HC, Single Judge Bench	PwD Act, 1995 : Section 32 and 33	<p>Mahesh Kumar Pandey v. Chairman, Coal India Limited & Ors., 2021 SCC OnLine Chh 3191</p> <p>The Petitioner was aggrieved by his candidature for promotion not being considered against the persons with disability category. He contended that he was entitled to relief under the PwD Act, 1995, despite the absence of reservation for persons with disability in Government policy or guidelines for selection/promotion from non-executive cadre to executive cadre. The Respondents argued that the Petitioner was not entitled to any relief as Government policy or guidelines did not provide for any reservation for persons with disability on departmental promotion from non-executive cadre to executive cadre. Respondent SECL also filed an affidavit stating that there was no provision for reservation for persons with disabilities in promotions from non-executive to executive cadre for the post of Welfare/Personnel in E-1 grade.</p> <p>The HC followed dicta of the SC that reservation is applicable in promotions as provided under Section 33 of the PwD Act, 1995, and once a post is identified, reservation must necessarily follow. The HC declared the impugned memoranda as illegal and inconsistent with the PwD Act, 1995 and directed the Respondent SECL to provide reservation in promotions after undertaking the process of identification of post(s) under Section 32 of the PwD Act, 1995, and then considering the case of the Petitioner.</p>	<ul style="list-style-type: none"> • Right to reservation in promotions. • Duty of identification of posts for providing reservations in promotion. 	Employment, Reservation, Promotion
33.	2017, Chhattisgarh HC, Single	PwD Act, 1995: Section 33	<p>Sanjay Sondhi v. State of Chhattisgarh, 2017 SCC OnLine Chh 1537</p> <p>The Petitioner, a person with 100% visual disability, cleared the Civil Services Examination conducted by the Chhattisgarh Public Service Commission and had filed his preference for the post of Naib Tahsildar and four other posts. The</p>	<ul style="list-style-type: none"> • Right to reservations cannot be denied through 	Employment, Reservation

	Judge Bench		<p>Petitioner had claimed age relaxation for this post, and filed a writ petition for directions to increase the age relaxation for Class-II posts with the relief that he may be appointed for the post of Deputy Collector. The Petitioner also prayed that the HC direct the Chhattisgarh Public Service Commission to reserve 3% vacancies for persons with disability under Section 33 of the PwD Act, 1995.</p> <p>The Respondent-State argued that a State Government Notification from 2006 exempted the State from application of Section 33 of the PwD Act, 1995 and the benefit of relaxation of age is only available to Class-III and Class-IV posts. Furthermore, the Chhattisgarh Public Service Commission contended that the post of Deputy Collector was exempted from application of Section 33 of PwD Act, 1995.</p> <p>The HC considered the Notification which exempted the cadre post of State Administrative Services (including the post of Deputy Collector) from the operation of Section 33 of the PwD Act, 1995 and stated that the power of exemption must be exercised subject to conditions mentioned in the proviso. The exclusion of entire cadre of State Administrative Service from the operation of Section 33 of the PwD Act, 1995 did not align with the objective of the PwD Act, 1995 and therefore, the HC directed the Respondent-State to reconsider the exemption Notification in light of the objectives of the PwD Act, 1995.</p>	<p>exemption not in line with the conditions in the proviso and the objective of legislation.</p>	
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34.	2022, Calcutta HC, Single Judge Bench	PwD Act, 1995 : Section 2 and 3 RPwD Act, 2016 : Section 2, 3, 16, 17, 20 and 102(2)	<p><u>Dr. Arun Sarkar v. State of West Bengal & Ors., 2022 SCC OnLine Cal 2282</u></p> <p>The Petitioner, a person with 80% disability was an Assistant Professor in Murshidabad. He wanted to be transferred to a university nearer to his house. West Bengal College Service Commission recommended him for appointment at another college that was closer to his home, in the person with disability category. On denial by the Governing Body of the latter university, the Petitioner requested the Commission to reconsider its recommendation. On denial again, the Petitioner challenged the decision before the Court.</p> <p>Petitioner argued that the decision of the Governing Body was arbitrary and discriminatory because the Petitioner was covered by the definition of a person with a disability.</p> <p>The HC observed that the purpose of the RPwD Act, 2016 was to provide a more inclusive definition of disability and to remove barriers in all forms which would violate the purpose of the RPwD Act, 2016. The HC also stated that RPwD Act, 2016 is a beneficial legislation for maintaining the rights of persons with disabilities and empowering them with equal opportunities. It quashed the resolution taken by the Governing Body and directed it to come up with a fresh decision within 8 weeks.</p>	<ul style="list-style-type: none"> • Right to get posting at a place of convenience. 	Employment, Transfer, Reasonable Accommodation
35.	2017, Calcutta HC, Single Judge Bench	PwD Act, 1995 : Section 26 and 39	<p><u>All Bengal Special Educators Association & Ors. v. State of West Bengal & Ors., 2017 SCC OnLine Cal 2564</u></p> <p>The Petitioner Association approached the HC in representative capacity on behalf of Special Educators employed with West Bengal schools. Through this petition, they have sought regularisation of their employment, at par with teachers for students who are not disabled. One of the questions for consideration, in this case, was whether they can seek regularisation and whether Special Educators were entitled to get equal pay for equal work.</p> <p>The HC observed that the employment of the Special Educators was done similar to the teachers for students who are not disabled, and there was no evidence that the Special Educators were contractual employees. The HC held that the</p>	<ul style="list-style-type: none"> • Right to equal pay of special educators for equal work. 	Employment, Special Educators, Equal Pay for Equal Work, Education.

			denial of equal pay to Special Educators was discriminatory since they were discharging the same duties as other teachers who are working for students who are not disabled. The HC interpreted Sections 26 and 39 of the PwD Act, 1995 which underlined the educational needs of persons with disability and held that only Special Educators can help realise the purpose of the PwD Act, 1995 and allowed the case of the Petitioners.		
36.	2023, Delhi HC, Division Bench	<p>RPwD Act, 2016: Section 93</p> <p>PwD Act, 1995: Section 33</p> <p>RPwD Rules, 2017 : Section NA</p>	<p><u>National Federation of the Blind v. Govt. of NCT of Delhi & Anr., 2023 SCC OnLine Del 1403</u></p> <p>The National Federation of the Blind filed a public interest litigation alleging the inaction of the Respondents in filling up the vacancies reserved for candidates with blindness or persons with low vision and in not providing reservation to persons with blindness or persons with low vision as per Section 33 of PwD Act, 1995 read with RPwD Rules, 2017.</p> <p>The Petitioner contended that the benefit of reservations as per scheme of the Ministry of Social Welfare had not been extended to persons with disabilities. The Petitioner also claimed that such inaction was a violation of the statutory provisions of the PwD Act, 1995 and a previous order of the SC with directions to give effect to 3% reservations under Section 33 of the PwD Act, 1995 and Section 34 of the RPwD Act, 2016 had not been complied with. The Petitioner had sought an order or direction to examine the reservations not provided, direct the Respondents including the State Commissioner for Persons with Disabilities (SCPD) to work out the vacancies which ought to have been reserved for persons with disabilities, call for the records relating to the maintenance of a roster for giving effect to 3% reservation for persons with disabilities.</p> <p>The SCPD passed a detailed order furnishing all details of the vacancies available to be filled up by persons with disabilities. The HC found that the existing vacancies in the SCPD order needed to be filled up as soon as possible. The GNCTD was directed to carry out a special recruitment drive for persons with disabilities, while also filling up the backlog of vacancies, as was directed by the SC order. The HC listed out a detailed schedule for the SCPD and its departments to adhere to and disposed of the PIL in favour of the Petitioner.</p>	<ul style="list-style-type: none"> • Right to avail all vacancies that might come up. • Duty of state to maintain records of, identify and fill up vacancies. 	Employment, Reasonable Accommodation

37.	2022, Delhi HC, Single Judge Bench	RPwD Act, 2016 : Section 3, 25, 26 and 75	<p>Saurabh Shukla v. Max Bupa Health Insurance Co. Ltd. & Ors., 2022 SCC OnLine Del 4471</p> <p>The Petitioner, a person with Tetraplegia and paralysis below his chest, filed a petition alleging denial of health insurance coverage by rejection of proposals for health insurance by two insurance companies, Oriental Insurance Company and Max Bupa.</p> <p>The HC held that persons with disabilities are entitled to health insurance coverage, and products should be designed to enable them to obtain health insurance coverage. Disability cannot be the basis of discrimination in the matter of insurance. The HC referred to the RPwD Act, 2016 and the UNCRPD, which prohibit discrimination against persons with disabilities in matters of health insurance. The HC held that insurance policies cannot discriminate between physical and intellectual disabilities or conditions, and availability of insurance for them is essential. The HC allowed the petition and directed the Insurance Regulatory and Development Authority of India to modify the terminology 'substandard lives' in their regulations and take immediate steps to ensure that insurance companies offer adequate products for persons with disabilities.</p>	<ul style="list-style-type: none"> • Right to Medical/Health Insurance for persons with all disabilities. 	Health, Mental Health, Insurance, Non-Discrimination.
38.	2021, Delhi HC, Single Judge Bench	RPwD Act, 2016: Section 32	<p>Anmol Kumar Mishra (Minor) v. Union of India & Ors., 2021 SCC OnLine Del 5148</p> <p>The Petitioner, a person with visual disability due to keratoconus, applied for admission in the persons with disability category for JEE (Advanced), 2021. His candidature was rejected on the basis that his disability certificate stated that his disability was temporary and likely to improve. The issue in this case was whether the Petitioner's temporary disability certificate could be considered valid for the purpose of admission in the persons with disability category for JEE (Advanced) 2021. The Respondent-State argued that the permanent disability certificate allows for the reservation in admission; however, the Petitioner's certificate states that their condition is likely to improve and therefore they were not entitled to the benefit of the reservation.</p> <p>The HC held that the Schedule of the RPwD Act, 2016, which enumerates 'specified disabilities', does not make a distinction between permanent and temporary visual disability. The RPwD Act, 2016 is a beneficial legislation and must be interpreted in order to fulfil its objectives, such a distinction between permanent and temporary visual disability would be unduly restrictive and</p>	<ul style="list-style-type: none"> • Right to non-discrimination between permanent and temporary disability. 	Education, Reasonable Accommodation, Permanent and Temporary Disability, Non-Discrimination.

			contrary to the RPwD Act, 2016 and the corresponding guidelines. Therefore, the HC held that Petitioner's temporary disability certificate should be considered valid for the purpose of admission in the persons with disability category for JEE (Advanced) 2021.		
39.	2020, Delhi HC, Division Bench	PwD Act, 1995: Section 32 and 33	<p><u>Dileep Kumar Shukla v. Union of India & Ors., 2020 SCC OnLine Del 156</u></p> <p>The Petitioner, a person with visual disability, challenged the failure of the Central Board of Direct Taxes (CBDT) to provide reservations for candidates who are persons with visual disability in the Indian Revenue Service (IT) and Indian Revenue Service (Customs & Central Excise) (C & CE).</p> <p>The Petitioner argued that he was allotted a post in the Indian Information Service (JG) based on his merit position in the persons with visual/low vision disability category (B/LV). He contended that he gave lower preferences to the Indian Revenue Service (IT) and Indian Revenue Service (C & CE) as no reservation was indicated for candidates belonging to the B/LV category. The Petitioner contended that the CBDT failed to provide reservations to the persons with disabilities category from 1996 onwards, and that Sections 32 and 33 of the PwD Act, 1995 do not make any distinction with regard to Grade A, B, C, and D posts.</p> <p>The Respondents argued they followed all rules under the Civil Services Examination Rules, 2011 (CSE Rules), where all relevant vacancies had been calculated and notified to the Cadre Controlling Authority (CCA). The Respondents stated that they were only engaged in allocation of the service to the candidates dependent on their preferences. The Petitioner's eligibility was only for the IAAS as per his rank and the Respondents had also submitted that the IRS (IT) and IRS (C & CE) posts were not specified as providing reservation.</p> <p>The CAT dismissed the Petitioner's challenge to the failure of the Respondents to make reservations for candidates with visual disability in the Indian Revenue Service (IT) and the Indian Revenue Service (C & CE). The Petitioner then approached the Delhi HC.</p> <p>The HC found merit in the Petitioner's contentions and directed the Respondents to allocate earmarked posts in the Indian Revenue Service (IT) and Indian Revenue Service (C & CE) to those with B/LV and examine whether the</p>	<ul style="list-style-type: none"> • Right to avail reservations specific to their disability. 	Employment, Reservation

			Petitioner could be accommodated in any such earmarked persons with disability vacancies for B/LV.		
40.	2020, Delhi HC, Division Bench	RPwD Act, 2016: Section NA. PwD Act, 1995: Section NA.	<p>Bhavya Nain v. High Court of Delhi, 2020 SCC OnLine Del 2525</p> <p>The Petitioner challenged the denial of the benefit of reservation under the category of persons with disability by the Respondent. The Petitioner was examined and a disability certificate for Bipolar Affective Disorder (BPAD) was issued in 2018 valid for a period of 5 years. The Respondent had rejected the candidature of the Petitioner from the Delhi Judicial Services exam, under the persons with disability quota on the ground that the Petitioner's mental disability is not of a permanent nature.</p> <p>The Petitioner cleared the prelims and mains stage of the exam and was called for an interview. However, as per the report of the medical superintendent, it was found that the condition of the Petitioner was in remission and likely to improve. Accordingly, the issue to be determined by the Court was whether a person certified to have been affected by a mental illness i.e., BPAD - which is in remission and is likely to improve, is entitled to the benefit of Reservation provided to persons with disability under the RPwD Act, 2016?</p> <p>The HC observed that BPAD was truly a serious lifelong and permanent incurable disorder that could, at best, be suppressed with medications and treatment, but could not be cured. The HC also observed that the Respondent had failed to substantiate the claim that the mental disability of the Petitioner was not permanent.</p> <p>Regarding the Respondent's reservations against the Petitioner joining the service given his condition and the demanding nature of the job, the HC held that it was the decision as to what should be the threshold for allowing a person with disability employment was within the domain of the legislature and not up to the Respondent, especially after posts are advertised - and seats are reserved for, inter alia, persons with mental illness, under the RPwD Act. The HC accordingly directed the Respondent to allow the Petitioner to immediately join the service.</p>	<ul style="list-style-type: none"> • Right to reservation for persons affected by bipolar disorder. • Right to not be denied employment because of disability and apprehension of its deterioration in future. 	Employment, Bipolar Disorder, Reservation, Reasonable Accommodation

41.	2018, Delhi HC, Division Bench	RPwD Act, 2016: Section NA.	<p><u>Nipun Malhotra & Ors. v. Government of NCT of Delhi & Ors., 2018 SCC OnLine Del 9507</u></p> <p>The HC considered the issue of whether the Respondents were well within their rights in procuring standard floor buses as only 10% of the buses have to be low floor buses, keeping in line with Government of India guidelines which stated that only 10% of government owned public transport carriers had to be made fully accessible.</p> <p>The HC observed that India had ratified the UNCRPD in 2007 and enacted the RPwD Act, 2016, to implement the principles for empowerment of persons with disabilities as laid down in the Convention. The Harmonious Guidelines and Space Standards for Barrier-Free Built Environment for Persons with Disabilities and Elder Persons also bound the Respondents.</p> <p>The HC noted that adequate access to all facilities on the road as well as convenient access to transport facilities is a right that flows from various international covenants to which India is a signatory. The HC further observed that the Respondents are prohibited from procuring any standard floor buses based on the pronouncements of the SC, the RPwD Act, 2016, and the Harmonious Guidelines and Space Standards. Therefore, the HC concluded that the Respondents stood precluded from procuring any standard floor buses.</p>	<ul style="list-style-type: none"> • Right to have access to adequate transport facilities. 	Accessibility, Public Transport, Reasonable Accommodation
42.	2018, Delhi HC, Single Judge Bench	RPwD Act, 2016: Section 16 PwD Act, 1995: Section 72	<p><u>Manif Alam v. Indian Institute of Technology, Delhi & Ors., 2018 SCC OnLine Del 7255</u></p> <p>The Petitioner, a student with a 50% locomotor disability was enrolled in M.Sc. Mathematics in Respondent No. 1 - Indian Institute of Technology, Delhi under the reserved category for persons with disabilities. However, the institute struck off the student's name from the Institute Rolls with effect from the end of the 1 Semester on account of his poor performance in the course, without an opportunity to show cause for the same. The Petitioner argued that the institute failed to provide mechanisms to facilitate the education of persons with disabilities, which gravely prejudiced the Petitioner's education and performance in the institute.</p> <p>Respondent No. 1, the institute, argued that the Petitioner had been removed in accordance with the Rules of the institution as represented in the brochure,</p>	<ul style="list-style-type: none"> • Right to education on equal footing with all others. • Duty of institutes to provide mechanisms to facilitate the education. 	Education, Reasonable Accommodation

			<p>applied uniformly to all students. It was argued that the Rules are made by experts in the field of education and it has been held in a catena of judgments that courts should not interfere in academic matters. It was also contended that the Petitioner was well aware of the same, having signed an undertaking to that effect.</p> <p>The HC found that the institute failed to comply with the requirements of the PwD Act, 1995 and the RPwD Act, 2016. The HC also found merit in the submission that the institute failed to take steps to take care of the special needs of persons with disabilities. The HC ruled in favour of the Petitioner and allowed the writ petition.</p>		
43.	2018, Delhi HC, Single Judge Bench	RPwD Act, 2016 : Section 34	<p>Yasmeen Mansuree v. Union of India & Ors., 2018 SCC OnLine Del 11627</p> <p>The Petitioner, an acid attack survivor, had been working as a nurse in Delhi for around three and a half years obtaining her diploma in General Nursing and Midwifery in 2014. In 2018, AIIMS issued an advertisement for filling up various Group-D Fposts. The Petitioner filed a writ petition alleging that the advertisement was violative of Section 34 of the RPwD Act, 2016 as it did not include acid attack survivors amongst the categories of persons with disabilities who could apply for the posts.</p> <p>The Petitioner argued that the SC had mandated compliance with the provisions of the RPwD Act, 2016 by the government. The said directions, according to the Petitioner, stood violated by the act of AIIMS in not permitting acid attack survivors to apply for the posts.</p> <p>AIIMS contended that in the absence of any Notification issued under Section 33 of the RPwD Act, 2016 it was bound by the earlier Notification issued under Section 32 of the PwD Act, 1995 which only identified "OL" as the category of disability, the persons possessing which would be suitable for being considered for the post of Nursing and that no other category of disability could be included in its advertisement.</p> <p>The HC analysed the provisions of Section 34 of the RPwD Act, 2016 and noted that the inclusion of additional categories of disabilities was intended to extend the scope of reservation for persons affected by other disabilities, which was fundamentally a measure aimed at social justice. The HC agreed with the</p>	<ul style="list-style-type: none"> Acid Attack survivors can also be attributed to person with disability category as per Section 34 of RPwD Act, 2016 	Employment, Reasonable Accommodation , Acid Attack Survivors

			<p>Petitioner that AIIMS had violated the provisions of Section 34 of the RPwD Act, 2016 by not including acid attack survivors amongst the categories of persons with disabilities who could apply for the posts. The HC disposed of the writ petition directing AIIMS to take a final decision on whether acid attack survivors would, or would not, be eligible to be considered for appointment against the post of Nursing Officers, in the context of the RPwD Act, 2016 and consider the case of the Petitioner in light of that decision. The HC also noted that the Petitioner would be at liberty to agitate her grievances by seeking appropriate remedies in accordance with law if she continued to remain aggrieved, either because of non-inclusion of acid attack as a category of disability in the Notification or against her non-appointment as nursing officer.</p>		
44.	2017, Delhi HC, Division Bench	RPwD Act, 2016: Section 2(h), 16, 40, 41 and 89	<p><u>Court on its Own Motion v. Union of India & Ors., 2017 SCC OnLine Del 9968</u></p> <p>The Respondent, a person with visual disability, had missed the admission test conducted by Delhi University because he could not board the train at Unnao station though he had reserved a berth in a coach meant for persons with disability but the coach was bolted from the inside. The HC held that this was a denial of right of access to public transport under Section 40 and 41(1) of the RPwD Act, 2016. The HC ruled that this obstruction was a violation of his constitutional right to equality and non-discrimination and a breach of the statutory duty of the Respondent.</p> <p>The HC emphasised the importance of the RPwD Act, 2016, and the need to ensure compliance with its provisions to protect the rights of persons with disabilities and the necessity of ensuring that persons with disabilities were provided with equal opportunities and assistance to overcome obstacles and participate fully in academic and professional pursuits.</p> <p>The HC directed the University to hold the test for Respondent, giving such assistance as permissible under the applicable rules for undertaking the examination. The HC also directed the Respondent to be granted admission to the course if he qualified for the exam and was placed appropriately in the merit list while sounding caution that directions in this case would not be taken as a precedent in any other case.</p>	<ul style="list-style-type: none"> • Right to have access to public transport 	<p>Accessibility, Public Transport, Discrimination, Equal Opportunity</p>

45.	2016, Delhi HC, Division Bench	PwD Act, 1995: Section 2(t), 32, 33, 39 and 47	<p>Sanjana Sinha v. University of Delhi & Anr., 2016 SCC OnLine Del 3495</p> <p>The Petitioner had a disability of 80% due to the amputation of her left leg. She applied for admission to the MBBS course under the persons with disability quota, but was declared ineligible by the Respondent no. 1 as the MCI guidelines and regulations did not permit admission in MBBS/BDS courses under persons with disability category, wherein the disability was beyond 70%.</p> <p>The HC held that the PwD Act, 1995 mandated educational institutions to reserve seats for persons with disabilities, and the MCI guidelines and regulations were in violation of the PwD Act, 1995. The HC noted that the definition of "disability" under Section 2(i) of the PwD Act, 1995 specifically included locomotor disability, and all educational institutions must reserve seats for persons with disabilities.</p> <p>The HC opined that a construction that promoted the purpose of the legislation should be preferred to a literal construction, and a construction which would defeat the rights of have-nots would lead to injustice should always be avoided. The HC allowed the writ petition, stating that the Petitioner having a disability of 80% was a more appropriate case to be given benefit of the PwD Act, 1995. The HC also directed the Respondent that they shall not deny admission to the Petitioner, if successful in a future NEET examination on ground of her 80% disability.</p>	<ul style="list-style-type: none"> • Right to equal opportunities and non-discrimination on account of disability. 	Education, Reservation, Non-Discrimination, Equal Opportunity
46.	2016, Delhi HC, Division Bench	PwD Act, 1995: Sections 32, 33, 36 and 41	<p>Shweta Bansal v. Union of India & Ors., 2016 SCC OnLine Del 4265</p> <p>The Petitioner, a candidate with locomotor disability who appeared in the Civil Services Examination, 2012 was not allocated any service and her name was excluded from the final selection list despite her having secured 769th position. The reason given was that the Petitioner had indicated preference only for 8 out of the 24 services and she was ineligible for all 8. The Petitioner filed a writ petition invoking the provisions of the PwD Act, 1995, and challenged the order passed by CAT as it did not allow her prayer for allotment of the Indian Administrative Service and the Indian Foreign Service (IFS).</p> <p>The HC considered the precedent of the SC where it was held that a minimum of 3% vacancies of posts in the establishment, 1% each has to be given to three categories, i.e, persons with blindness or low vision; persons with hearing</p>	<ul style="list-style-type: none"> • Rights to seek reservations proportional to the percentage of vacancies reserved for three categories of persons with disability. 	Employment, Reservation, Non-Discrimination

			<p>impairment, and persons with locomotor disability or cerebral palsy. As a consequence of such a judgement by the SC, the HC held that the Petitioner had a right to be considered and allocated the vacant post reserved for a person with locomotor disability/orthopaedic disability.</p> <p>The HC modified the order of the CAT holding that the Petitioner was in fact eligible for appointment to the post of IFS and directed the Respondents to proceed to issue the selection letter for such appointment. The HC held that the Petitioner had a right to be considered and allocated the vacant post reserved for a person with locomotor disability/orthopaedic disability. The HC held that the Petitioner would not be entitled to backwages and would undergo training with the next batch. The promotions already made would not be disturbed as a result of the relief granted to the Petitioner.</p>		
47.	2010, Delhi HC, Single Judge Bench	PwD Act, 1995: Section 26 and 30	<p><u>Lalit & Ors. v. Govt. of NCT & Anr., 2010 SCC OnLine Del 1882</u></p> <p>This petition was filed by 12 residents of the hostel attached to Andh Mahavidyalaya, New Delhi, an institution for students with visual disability, seeking a direction that they may not be expelled or dispossessed from the hostel.</p> <p>The case of the Respondents was that out of the 12 Petitioners, expulsion orders were issued only against 5 inmates on the ground that the hostel was meant only for students up to Class VIII and the Petitioners had overstayed. Many of them were aged between 25-35 years and it was alleged that there was a shortage of space for deserving younger students. Moreover, these 5 were stated to have been intimidating the younger students and disrupting their education. One of the main issues before the HC was whether the hostel was obligated to accommodate the Petitioners because of their status as persons with visual disability even if it resulted in a disadvantage to the other students with visual disability.</p> <p>The HC relied upon Article 24 of the UNCRPD which guaranteed the right to education and held that in the context of a child with disability housed in a state-run institution, there is a cluster of laws all of which could be traced to the fundamental rights to liberty and a life with dignity. It held that in the context of a young person receiving education in a state-run institution as a resident scholar,</p>	<ul style="list-style-type: none"> • Rights to shelter and decent living, an inalienable facet of the right to education. • Right to residence. 	Disability, Inclusive Education, Residence, Hostel Accommodation

			<p>the right to shelter and decent living is an inalienable facet of the right to education itself and when the State takes over the running of an educational institution that caters to the needs of persons with disability, it has to account for the 'cascading effect' of multiple disadvantages that such children face.</p> <p>The HC was called upon to balance the two rights, by taking into account the level of disabilities faced by each group demanding accommodation. The HC directed the Authorised Officer to ensure necessary action in respect of those residents who ought not to be staying any longer in the hostel and that their eviction was not on a selective basis, or overnight. The HC stated that sufficient time should be given to such residents to make alternative arrangements and every possible assistance should be extended to them to find an alternative accommodation.</p>		
48.	2012, Delhi HC, Division Bench	PwD Act, 1995: Section 26	<p>Social Jurist, A Civil Rights Group v. Govt. of N.C.T. of Delhi, 2012 SCC OnLine Del 4651</p> <p>The petition filed in public interest highlighted the deficiency of requisite teaching aids for children with disability and non-availability of Special Educators, in the unaided and aided private schools of Delhi and sought directions in that regard.</p> <p>The HC found merit in the contention that the deployment of Special Educators could not be deferred till the admission of children with disability and the schools have to be in a state of readiness and preparedness to receive children with disability. The HC directed all recognized aided and unaided private schools in Delhi to appoint Special Educators and to make their building and school premises barrier free so as to provide free movement and access to children with disabilities. The HC also directed the Department of Education, Delhi to ensure the appointment of Special Educators in schools without children with disabilities, and where schools already had children with disabilities, the Respondent-State was directed to immediately make provisions for Special Educators and no school could refuse to procure and employ all necessary teaching aids and reading materials.</p>	<ul style="list-style-type: none"> • Right of children with disabilities to receive teaching aids, have special educators, accessible campuses and requisite equipment, including reading material. 	Inclusive Education, Appointment of Special Educators, Accessibility

49.	2002, Delhi HC, Division Bench	PwD Act, 1995: Section 33 and 36	<p><u>Government of NCT of Delhi v. Bharat Lal Meena, 2002 SCC OnLine Del 938</u></p> <p>The Respondent, a person with orthopaedic disability, had applied for the job of physical education teacher under an Office Memorandum (OM) that was issued by the Government, allowing for reservations for persons with disabilities. He passed the written test and was inducted as a physical education teacher on the recommendation of the Directorate of Education after being satisfied with his educational qualifications. However, after induction, the nomination was sought to be cancelled by order of the Chief Commissioner of Disabilities on ground that he was selected in the persons with disability category for which he was not eligible for reservation for the post of physical education teacher and that the OM had a mistake and hence the employment was terminated. The Tribunal sided with the Respondent and hence the State filed the present writ petition challenging the order of the Tribunal.</p> <p>The HC, agreeing with the Respondent and the Tribunal, held that the letter from the Chief Commissioner of Disabilities was an invalid document. The HC stated that it was the duty of the government (Petitioner) to issue necessary instructions and the employment of the Respondent could not be rejected after having passed the exams and termed to be fit for the position of a physical education teacher. Employment could not be taken away after induction had taken place.</p>	<ul style="list-style-type: none"> • Employment cannot be taken away after induction has already taken place. 	Employment, Discrimination, Reservation, Reasonable Accommodation
50.	2002, Delhi HC, Single Judge Bench	PwD Act, 1995: Section 2(t) and 59	<p><u>Life Insurance Corporation of India v. Chief Commissioner for Disabilities Ministry of Social Justice & Empowerment, 2002 SCC OnLine Del 1016</u></p> <p>The Petitioner (LIC) had filed a petition against the order of the Chief Commissioner for Disabilities Ministry of Social Justice.</p> <p>Respondent 2, had applied for the post of peon under LIC and had passed the interview as well as the written test. However, on being sent for a medical check-up before the commencement of employment, the Respondent was diagnosed with a progressive case of Huntington's Chorea, with a disability of 45%. However, on being consulted again under VIMHANS hospital, he was said to be affected from a non-progressive case of dystonia. Due to conflicting medical opinions, the commissioner asked for his checkup to be done by a government hospital, and his report here said that he was a case of generalised dystonia and that his intelligence was average, and that he could comprehend</p>	<ul style="list-style-type: none"> • Right to equal opportunities in employment when certified capable of performing the job. 	Employment, Reasonable Accommodation, Non-Discrimination.

			<p>and speak normally. It also stated that his cognitive functions were within normal limits. The doctors of LIC were still not convinced and thus appealed against this order.</p> <p>The HC rejected the appeal, and noted that the tasks that a peon was supposed to perform did not require any specialised skill sets and that the Respondent was capable of undertaking most tasks. It held that even though he could not complete all tasks, LIC should be lenient as there would be many other clerks who could undertake this job. Thus, the HC secured the Respondent's job as a peon.</p>		
51.	2001, Delhi HC, Single Judge Bench	PwD Act, 1995 : Section 47 and 59	<p>Virender Kumar Gupta v. Delhi Transport Corporation, 2001 SCC OnLine Del 962</p> <p>The Petitioner, a conductor working under the DTC met with an accident during the course of employment due to which he acquired a disability. After he recovered, AIIMS issued a medical certificate indicating that he was not totally incapacitated from working, and could be given a desk job. However, the medical board at the DTC examined him again and declared him to be medically unfit, terminating his employment and retiring him prematurely. The Petitioner challenged the same. The Respondent argued that since the medical board of the Corporation opined that the petitioner was medically unfit, they did not need to question the premature retirement of the Petitioner.</p> <p>The HC, allowing the petition, held that when a medical certificate has deemed the Petitioner to be fit for a desk job, then a provision has to be made for the same. It held that even though taking a second consultation (from the medical board of DTC) is valid, it cannot be allowed to supersede the opinion of a reputed expert (AIIMS). The HC disallowing arbitrary termination of Petitioner's services set aside the order of premature retirement of the Petitioner with a direction to the Respondent to take the Petitioner back in service and pay the salary from the date when the Respondent stopped paying full salary to the Petitioner, soon after the accident/injury.</p>	<ul style="list-style-type: none"> • Right to alternate employment and accommodation. • Right against arbitrary termination of services. 	Employment, Reasonable Accommodation, Wrongful Termination

52.	2021, Gujarat HC, Single Judge Bench	RPwD Act, 2016 : Section 3	<p>Mahendrabhai Savjibhai Ozat v. Paschim Gujarat Vij Company Ltd., 2021 SCC OnLine Guj 2518</p> <p>The Petitioner was appointed as an apprentice lineman for two years by the Respondent, Paschim Gujarat Vij Company Limited in 2014. He got in an accident in the course of service as an apprentice while working as a wire-man and lost his hand. The Respondent paid compensation to the Petitioner under the Workmen Compensation Act, 1924 but asked the Petitioner to give physical tests for pole climbing and written test, which the Petitioner was unable to due to his 45% physical disability. The Petitioner, after various unanswered requests by the Respondent Company, made a representation to the Court of Commissioner (For Disabled Persons) requesting that he be given any other alternative appointment. The Commissioner for the Physically Disabled Persons, taking into consideration the provisions provided under Section 3(5) of the RPwD Act, 2016 directed the Respondent to consider the case of the petitioner for alternative employment. The Respondent rejected his plea for alternative employment, relying on Section 22(1) of the Apprenticeship Act, 1961 and the order which provided that it was not the employer's obligation to offer employment to any apprentice who had not completed the period of their apprenticeship training. The Petitioner challenged such order and prayed to the HC for alternate employment to be provided to him.</p> <p>The HC held that the Petitioner was not able to undergo physical and written examinations due to his disability which occurred during the Petitioner's apprenticeship training and therefore the Respondent had wrongly placed reliance on the order. The Court quashed the impugned order and directed the Respondent to consider the case of the Petitioner for any alternate employment against reserved vacancies for persons with disabilities.</p>	<ul style="list-style-type: none"> • Right to alternate employment and reasonable accommodation. • Right for getting certain requirement relaxations by the employer such as physical examination. 	Employment, Reasonable Accommodation
53.	2016, Gujarat HC, Single Judge Bench	PwD Act, 1995: Section 32, 33, 36 and 41	<p>Tailor Keyur Atulbhai v. State of Gujarat, 2016 SCC OnLine Guj 7634</p> <p>The Petitioners challenged the State Government's Notification dated 12th February 2013, which only made persons with vision more than 40% and less than 75% eligible for the posts of Vidhya Sahayaks/Primary School Teachers, thereby discriminating against the Petitioners, candidates who are persons with 100% visual disability. The State Government contended that a 100% blind</p>	<ul style="list-style-type: none"> • Right against discrimination on the basis of percentage of disability. 	Employment, Reservation, Equal Opportunities, Non-Discrimination.

			<p>candidate would not be in a position to efficiently discharge duties as a Teacher/Vidhya Sahayak.</p> <p>The HC held that the State Government could not make a distinction between candidates who are persons with visual disability on the basis of their percentage of disability and that a person with 100% visual disability could be appointed as a teacher. The HC also noted that the State Government had taken it for granted that a 100% blind candidate would not be able to discharge their duties as a teacher, which was not contemplated or permitted by the statutory provisions. The HC emphasised the importance of ensuring that the State Government constituted an Expert Committee under the provisions of Section 32 of the PwD Act, 1995 to identify suitable posts for persons with disabilities to be reserved for in the establishment of the State.</p>		
54.	2016, Gujarat HC, Single Judge Bench	PwD Act, 1995: Section 2	<p>Naresh Bansilal Soni v. Municipal Commissioner, 2016 SCC OnLine Guj 654</p> <p>The Petitioner, a person with intellectual disability, was receiving his deceased father's pension from the Respondent, the Ahmedabad Municipal Corporation. However, the payment of the pension was stopped on the ground that the certificate of being alive was not produced before the Respondent and that the Petitioner was able to work on his own. The HC held that Rule 93 of the Gujarat Civil Services (Pension) Rules, 2002 provides for payment of family pension to children with intellectual disabilities, visual impairment etc., if their disability renders them unable to earn a living even after attaining the age of twenty-five years. The HC further held that the concerned officer had no authority to decide whether the Petitioner is capable of earning a livelihood or not by mere appearance and that the stopping of the Petitioner's pension was arbitrary. The HC quashed the order and directed the Respondents to pay the pension to the Petitioner on a regular basis from the year 2014 with interest at the rate of 9% per annum.</p>	<ul style="list-style-type: none"> Right of children with intellectual disabilities to receive family pension. 	Family Pension
55.	2022, Himachal Pradesh HC, Division Bench	RPwD Act, 2016 : Section 20	<p>Nagender Kumar v. Himachal Pradesh State Electricity Board Ltd. & Anr., 2022 SCC OnLine HP 2512</p> <p>The Petitioner filed the writ petition seeking directions to be appointed to service with the Respondent-Himachal Pradesh State Electricity Board Limited on compassionate grounds in lieu of the services rendered by his father, who died in harness in 2020, after meeting with an accident in 2005. Moreover, a</p>	<ul style="list-style-type: none"> Right against discrimination on grounds of disability in matters of 	Employment, Promotion, Reasonable Accommodation, Compassionate Appointment,

			<p>promotion given to the Petitioner;s father was also withdrawn by the Respondent Board.</p> <p>The issue before the HC was whether this merited benefit under Section 20 of the RPwD Act, 2016 to be given to the Petitioner. The Petitioner argued that the State cannot discriminate in promotion merely on grounds of disability under Section 20 of the RPwD Act, 2016.</p> <p>The HC found withdrawal of Petitioner’s father’s promotion to be illegal and quashed and set aside the same, with the direction that the Petitioner’s father would be deemed to have continued on such post till attaining the age of superannuation. The order declaring retirement of the Petitioner’s father was also quashed and set aside. The HC directed the Respondent to reconsider the case of the Petitioner for appointment on compassionate grounds as per the qualifications of the Petitioner while quashing the order of the Respondents rejecting the application of the Petitioner for grant of such appointment.</p>	<p>promotion under Section 20 of RPwD Act, 2016.</p>	<p>Non-Discrimination.</p>
56.	2014, Himachal Pradesh HC, Single Judge Bench	PwD Act, 1995 : Section 2 and 47	<p><u>Paras Ram v. State of Himachal Pradesh & Anr., 2014 SCC OnLine HP 3786</u></p> <p>The Petitioner, a peon in the office of Deputy Commissioner Shimla District was affected by chronic Schizophrenia. The Petitioner had prayed for his retirement order to be set aside as it was in violation of Section 47 of the PwD Act, 1995. The Petitioner’s wife and son had also sought employment on compassionate grounds under the Deputy Commissioner but their representations were rejected.</p> <p>The Court considered whether the Petitioner was legally entitled for benefit of Section 47 of the PwD Act, 1995 and whether the Petitioner’s wife and son were entitled to employment on compassionate grounds.</p> <p>The HC stated that the Petitioner was entitled to the provisions of Section 47 of the PwD Act, 1995 as Section 2(i) of the PwD Act, 1995 covered persons with intellectual disabilities. The HC also set aside the retirement order of the Petitioner and directed Respondent to provide a supernumerary post to the Petitioner until a suitable post is available or until the Petitioner attains the age of superannuation, whichever is earlier. The HC found no merit in the arguments for employment for Petitioner’s wife and son on compassionate grounds since the benefits under Section 47 of the PwD Act, 1995 and the appointment of</p>	<ul style="list-style-type: none"> • Right of persons with intellectual disability to against termination and to be accommodated in suitable or supernumery posts. 	<p>Employment, Promotion, Reasonable Accommodation , Compassionate Appointment, Non-Discrimination.</p>

			Petitioner's wife and son on compassionate grounds could not be granted simultaneously. Writ petition was disposed of.		
57.	2017, Jammu & Kashmir HC, Division Bench	PwD Act, 1995 : Section NA	<p><u>State of Jammu and Kashmir & Ors v. Suraj Singh, 2017 SCC OnLine J&K 970</u></p> <p>The Respondent, a person with a 100% visual disability did not have accommodation in Jammu. The Respondent approached the Chief Minister for allotment of accommodation under 5% discretionary quota as per J.&K. Estates Department (Allotment of Government Accommodation) Regulations, 2004 which was rejected on the ground that there was no existing provision for giving housing accommodations to persons with disability.</p> <p>The Appellants had argued that the aforementioned Regulations did not have any specific provision for persons with disability reservation in housing and that the Minister of Estates, Government of Jammu and Kashmir had already passed an order rejecting the claim of the Respondent. The Single Judge of the HC had allowed the Respondent's writ petition, directing the Appellants to present the case before the Minister of Estates in light of the interpretation of the Regulations as given by the Single Judge.</p> <p>The Appellants then filed the appeal and the Division Bench of the HC agreed with the findings of the Single Judge. The Division Bench held that the Regulations allowed for a broader interpretation which would include persons with disability. The HC quashed the rejection order of the Estates Department and directed the Minister Estates, Government of Jammu and Kashmir to take a decision on the entitlement of the Respondent for accommodation.</p>	<ul style="list-style-type: none"> • Right of persons with disability to get reservation in housing/ accommodation. 	Housing, Reasonable Accommodation

58.	2018, Jharkhand HC, Single Judge Bench	PwD Act, 1995 : Section 25 and 38(1)(b)	<p><u>Mukesh Kumar Singh v. State of Jharkhand & Ors., 2018 SCC OnLine Jhar 1538</u></p> <p>The case was about a dispute on the implementation of Section 25 of PwD Act, 1995 in the state of Jharkhand. The State had formulated its policy under which age relaxation of 5 years had been granted for persons with disability for their appointment in government services, but the Petitioner argued that the policy runs contrary to the objective of the PwD Act, 1995. The HC held that the PwD Act, 1995 was a Central Legislation, and provisions of which were binding on every state.</p> <p>The Office Memorandums had been issued under the PwD Act, 1995, and these Office Memorandums were in the nature of subordinate legislation. The HC held that the scheme of the State Government could not run contrary to the scheme/Guidelines/Notifications/Office Memorandums issued by the Central Government under the PwD Act, 1995 even though they may be issued for employment under the Central Government.</p>	N.A.	Employment
59.	2016, Jharkhand HC, Division Bench	PwD Act, 1995: Section 32, 33 and 36	<p><u>Arun Kumar Singh v. State of Jharkhand & Ors., 2016 SCC OnLine Jhar 3414</u></p> <p>The case concerned implementation of Section 33 of PwD Act, 1995 which pertained to reservation for persons with disability in Jharkhand. The issue was whether reservation under Section 33 of the PwD Act, 1995 had to be implemented considering the total number of posts advertised only or the number of posts advertised viz-a-viz cadre strength.</p> <p>The HC declared that reservations for persons with disability were to be decided on the basis of total cadre strength and implemented in respect of the total number of vacancies advertised. The HC emphasised that Governments had to effectively implement the PwD Act, 1995 to provide relief to persons with disability and accord special attention to them for true equality and effective conferment of equal opportunity. The HC directed the Respondent, state of Jharkhand to direct all establishments to compute the number of vacancies available and to identify the posts for persons with disability within a period of three months and make all such data available in public domain. The HC also directed the Respondent to issue instructions to all establishments making heads of establishments personally responsible for non-implementation of the scheme of reservation for persons with disabilities. and vacancies which, after the creation of the State of Jharkhand.</p>	<ul style="list-style-type: none"> • Right to avail reservations on the basis of total cadre strength and implemented in respect of total number of vacancies advertised. 	Employment, Reservation.

60.	2022, Kerala HC, Single Judge Bench	<p>RPwD Act, 2016 : Section 34</p> <p>PwD Act, 1995 : Section 2(k), 32 and 33</p>	<p>K. J Varghese v. State of Kerala & Ors., 2022 SCC OnLine Ker 4028:</p> <p>The Petitioners in this case were all 100% blind and seeking employment opportunities to the post of Upper Primary School Teacher, High School Teacher, and also for non-teaching posts, reserved for persons with disabilities under the PwD Act, 1995. The Kerala government introduced a scheme reserving 3% vacancies for persons with disability in Class III and Class IV posts, while the RPwD Act, 2016 mandates 4% reservation in aided schools/colleges for identified posts. The Management had the final say in hiring persons with disability candidates in aided schools. The Petitioner argued that the Government order to provide 3% reservation for persons with disability against the available vacancies and to provide 4% reservation in aided schools had not been implemented by the Respondents. The Petitioner also contended that the new order which created a cut-off date for managers of Aided institutions for providing reservation would allow them to bypass the reservation provisions, thereby violating the rights of persons with disability. The Petitioner also submitted that implementing the previous order to fill vacancies before providing reservations will lead to a loss of employment opportunities for persons with disability in the State.</p> <p>The Respondent argued that all decisions were taken considering the interest of all the parties and that the elaborate procedure for issuing certification for specified disabilities and the Rules for identification of posts reserved for persons with benchmark disabilities is necessary to support the interests of persons with disability by facilitating data written under the Employment Exchange.</p> <p>The HC held that delay in identifying posts under Section 32 of the PwD Act, 1995 could not be used to deny the benefit of appointment under Section 33 to persons with disability. Section 33 of the PwD Act, 1995 creates a duty upon the establishment to make appointments and the intention of the legislation under Section 32 of the PwD Act, 1995 was not to frustrate reservation benefits given under Section 33 of the PwD Act, 1995. Identification of reservation posts was required immediately after the PwD Act, 1995, but resistance to reservation was evident from delaying tactics. Respondent's argument based on Employment Exchange data was not deemed valid by the HC as persons with disability aspiring for teaching posts in aided schools were not required to register with the Employment Exchange.</p>	<ul style="list-style-type: none"> • Right to reservation without any hindrances. 	<p>Employment, Reservation, Backlog Vacancies, Non-Discrimination</p>
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			<p>The HC held that Managers of Aided Schools were bound by the government orders and were directed to provide 3% reservation of total number of vacancies in the cadre strength. The HC quashed the orders to the extent of creating a cut off date for filling up vacancies and gave directions to calculate backlog vacancies with no effect to appointments already made.</p>		
61.	2021, Kerala HC, Division Bench	RPwD Act, 2016: Section 31, 55 and 88	<p>Dileepan K.R. & Anr. v. State of Kerala & Anr., 2021 SCC OnLine Ker 9305</p> <p>The Petitioner challenged the delay in compliance with Sections 31, 55 and 88 of the RPwD Act, 2016, and the non-availability of financial assistance to schools for persons with intellectual disability. The Petitioner argued that many schools for persons with intellectual disabilities were not able to run their institutions due to delay in according aided status to schools being run by private managements. The government had issued orders accepting the recommendations and granting aided status to schools that catered to the educational needs of students with intellectual disability. However, appropriate funds were required to be sanctioned for the implementation of the RPwD Act, 2016 and Right of Persons with Disabilities (Kerala) Rules, 2020. The Respondents argued that more than enough funds had been sanctioned and distributed to meet the expenditure towards various expenses for schools of persons with disabilities.</p> <p>The HC directed the Director of Public Instructions through a government order to submit a proposal for creation of necessary staff-teacher strength in the special schools which had been conferred with aided status. The HC also directed that any proposals so sent were to be considered in the light of the objective of the RPwD Act, 2016 and Right of Persons with Disabilities (Kerala) Rules, 2020, framed thereunder.</p>	<ul style="list-style-type: none"> Right to education, including financial assistance to schools for persons with intellectual disability. 	Special schools, Appropriation of funds, education & Social Justice Department.
62.	2020, Kerala HC, Single Judge Bench	RPwD Act, 2016 Section: 2(r), 2(s) and 17(i)	<p>Blessen Baby (Minor) v. State of Kerala & Ors., 2020 SCC OnLine Ker 714</p> <p>The Petitioner through the writ petition sought entitlement to a scribe and extra time in the SSLC examinations under the RPwD Act, 2016. Petitioner was a student with a borderline IQ of 76 and was certified as a person affected with dyslexia by a competent medical board. He had filed an application for a scribe</p>	<ul style="list-style-type: none"> Right to suitable modifications in curriculum and examination 	Education, Benchmark disability, Suitable Modifications, Reasonable Accommodation

		<p>and extra time in the SSLC examinations, but it was rejected by the Respondents. The said rejection was also challenged by the Petitioner.</p> <p>The Respondent contended that the petitioner submitted a certificate of disability which showed a learning disability of 25%. It was argued that the provisions of the guidelines issued for the SSLC examinations, 2020 at Clause XVII provided for benefits including extra time and scribe only if the disability was to the extent of 40% or more. In view of the fact that the petitioner had produced only a rejection certificate from the medical board showing a disability of 25%, the benefits could not be extended to him.</p> <p>The Petitioner argued that he was entitled to a scribe and extra time under Section 17(i) of the RPwD Act, 2016, which provides for suitable modifications in the curriculum and examination system to meet the needs of students with disabilities such as extra time for completion of examination paper, facility of scribe, and exemption from 2 and 3 language courses.</p> <p>The HC observed that since the Petitioner was a person with a disability of 25%, the benefits sought are liable to be extended to the Petitioner. The Respondents were directed to provide the educational benefit of scribe as well as extra time in the ensuing SSLC examination.</p>	<p>n system to meet the needs of all students with disabilities, not just benchmark disabilities..</p>	<p>, Examination, Scribe.</p>
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63.	2020, Kerala HC, Single Judge Bench	RPwD Act, 2016 : Section 14; National Trust Act, 1999	<p>Gopalan P.V. v. Union of India & Ors., 2020 SCC OnLine Ker 4723</p> <p>The Petitioner filed an application under the National Act, 1999 seeking appointment as the guardian of Shri. Mahesh P.C., a person with disability, for the purpose of dealing with fixed deposits and to support him. However, the orders on the application were not passed by the Local Level Committee, which is the authority under the RPwD Act, 2016. The Petitioner filed a writ petition against the same.</p> <p>The Amicus Curiae in the case pointed out that proceedings did not lie under the National Trust Act 2016 in the case and the Petitioner ought to have moved under the RPwD Act, 2016 for the appointment of a guardian.</p> <p>The Petitioner subsequently filed an application before the Sub Divisional Magistrate under Section 14 of the RPwD Act 2016 which provides for grant of “limited guardianship”, to support the person having a disability.</p> <p>The Writ Petition was disposed of directing the 7th Respondent, the Additional-Sub Divisional Magistrate and Sub Collector, Thrissur to consider and pass orders on the Petitioner’s application for appointment of a guardian, on its merit as quickly as possible.</p>	<ul style="list-style-type: none"> Appointment of a limited guardian under RPwD Act, 2016. 	Limited Guardianship.
64.	2019, Kerala HC, Single Judge Bench	RPwD Act, 2016 : Section 2(r)	<p>Dr. Sheeja R.S. v. Sree Sankaracharya University of Sanskrit, 2019 SCC OnLine Ker 5743</p> <p>The Petitioner, an Assistant Professor, was affected with Parkinson’s disease. She was a native of Chirayinkeezhu in Thiruvananthapuram District and had been ordered to be transferred to a place nearly 525 kilometres away from her current workplace. The Petitioner filed a writ challenging the transfer order and claimed that she was entitled to protection under the RPwD Act, 2016.</p> <p>The issue raised was whether the transfer order was illegal and whether the Petitioner was entitled to protection under the RPwD Act, 2016.</p> <p>The RPwD Act, 2016 defines a “person with benchmark disability” as someone with not less than 40% of a specified disability. Parkinson’s disease is not defined in measurable terms in the RPwD Act, 2016. In the absence of such a measurable definition, the Medical Board ought to have assessed whether the Petitioner had</p>	<ul style="list-style-type: none"> Right to get posting at a place of convenience. 	Employment, Transfer, Reasonable Accommodation, Parkinson’s Disease, Benchmark Disability.

			<p>a benchmark disability. The Medical Board had assessed the Petitioner's disability as Parkinson's disease, but did not specify whether it met the benchmark disability criteria of 40%.</p> <p>The HC directed the Medical Board to specify the disability in measurable terms and re-issue a certificate to such effect. The Court further directed the university to accord all protection in accordance with the RPwD Act, 2016 if the Petitioner's disability was specified above 40%,.</p>		
65.	2019, Kerala HC, Division Bench	<p>RPwD Act, 2016 : Section 2(r) and 2(s), 13 and 14;</p> <p>PwD Act, 1995 : Section 2 ;</p> <p>MH Act, 2017: Section 2(s), 3, 34, 46, 52, 53, 54 and 74;</p> <p>National Trust Act, 1999 : Section 2, 14 and 15</p>	<p>Shobha Gopalakrishnan v. State of Kerala & Ors., 2019 SCC OnLine Ker 739</p> <p>The Petitioners sought appointment of a guardian for a patient in a comatose state due to irreversible brain damage caused by cardiac arrest. The Guardians and Wards Act, 1890, the MHA, 1987, and the Mental Healthcare Act, 2017 did not have provisions for appointing a guardian to a person lying in a comatose state. The RPwD Act, 2016 did not cover persons in a comatose state.</p> <p>The HC found that there was no enabling provision for appointment of a Guardian to a patient in comatose state under any statute in India. The HC held that it was within the exclusive domain of the Parliament to re-write the provision. The HC clarified that the National Trust Act, 1999 could not be referred to in every case for the purpose of constitution of a local level committee and appointment of a guardian under Sections 13 and 14 of the National Trust Act, 1999 as it could not have universal application.</p>	N.A.	Comatose state, Guardianship, Intellectual disability.
66.	2018, Madhya Pradesh HC, Division Bench	<p>RPwD Act, 2016 : Section 34</p> <p>PwD Act, 1995 : Section 32, 33 and 47</p>	<p>Rashmi Thakur v. High Court of Madhya Pradesh & Ors., 2018 SCC OnLine MP 1183</p> <p>The Petitioner, a person with visual disability affected to the extent of 75% due to microphthalmia in the right eye and coloboma of iris in the left eye, had challenged the HC's advertisement for filling up of posts of Civil Judge Class-II (Entry Level) which provided for reservation of 2% posts for candidates with</p>	<ul style="list-style-type: none"> Right to public employment and reservation for candidates 	Employment, Reservation, Reasonable Accommodation, Visual Disability, Non-Discrimination.

			<p>orthopaedic disability without providing reservation for candidates with visual disability.</p> <p>The HC held that the HC's advertisement contravened the provisions of Section 34 of the RPwD Act, 2016, which mandated reservation for persons with visual disability having low vision and blindness. The HC observed that the RPwD Act, 2016 has made a departure from the provisions of the PwD Act, 1995 as the reservation for persons with physical disability is not dependent on any condition. Therefore, in absence of any decision to exempt the HC from the provisions of the reservation, the HC was bound to reserve posts for candidates with visual disability.</p> <p>The HC highlighted the need for governments and employers to take proactive measures to provide reasonable accommodations and support to persons with disabilities, enabling them to participate equally and fully in all aspects of life. It observed that it was imperative that the provisions of Section 32 of the PwD Act, 1995 be implemented in letter and spirit and declared the impugned memoranda as illegal and inconsistent with the PwD Act, 1995. The HC also directed for the written examination for the Petitioner to be conducted within one month, and in the event of her qualifying the same that she be considered for appointment in accordance with the law.</p>	with visual disability.	
67.	2022, Madras HC, Single Judge Bench	<p>RPwD Act, 2016: Section 3(1) and 58;</p> <p>MH Act, 2017 : Section 18(5)(d);</p> <p>National Trust Act, 1999 : Section 10</p>	<p><u><i>T.R. Ramanathan v. Tamil Nadu State Mental Health Authority & Anr., 2022 SCC OnLine Mad 3032</i></u></p> <p>Petitioner's 61-year old son had been assessed as a person with intellectual disability and was eligible to be entitled to family pension benefits after his death. To avail the said benefit, an entry was required to be made in the petitioner's pension book which required a disability certificate. The Petitioner's daughter approached the Institute of Mental Health for obtaining a certificate of disability under Section 58 of RPwD Act, 2016. The Institute insisted that the person with intellectual disability who could neither speak nor express himself, and had severe anxiety be brought for assessment in person. He was forced into a vehicle for this purpose and the Institute deemed him to be a person with intellectual disability but this was deemed insufficient for issuance of certificate. The Institute insisted that the person with intellectual disability be brought again, but the said person had developed severe anxiety and became paranoid. The Petitioner's daughter informed the concerned officials of the Institute that it</p>	<ul style="list-style-type: none"> • Right to accommodation, dignity, and respect for integrity for persons with disabilities, equally with all others. • Right to obtain a disability certificate without any 	<p>Accessibility, Disability Certificate, Reasonable Accommodation , Health, Family Pension.</p>

			<p>was not possible to bring the person to the Institute premises again and filed the present petition. The issue raised was whether the certifying authority can insist that the person for whom the certificate of disability is sought should come to the premises of the institution for the purpose of assessment despite their inability to do the same.</p> <p>The HC stated that persons with disabilities are entitled to rights guaranteed under Article 21 of the Constitution of India and should be able to obtain a certificate of disability under Section 58 of the RPwD Act, 2016 without any hassle or difficulty. The appropriate government must ensure that persons with disabilities enjoy the right to equality, life with dignity, and respect for their integrity equally with others, as per Section 3(1) of the RPwD Act, 2016. The health infrastructure should be malleable enough to address the needs of every individual and since the person with intellectual disability was already assessed once, the need for him to be produced before the Institute is arbitrary. Hence, the Institute was directed to issue the Disability Certificate to the person with intellectual disability.</p>	<p>hassle or difficulty.</p> <ul style="list-style-type: none"> Health infrastructure to be malleable enough to address the adequate needs of every person with disability. 	
68.	2022, Madras HC, Division Bench	RPwD Act, 2016: Section 2, 3, 29 and 40	<p>K.R. Raja v. State of Tamil Nadu & Ors., 2022 SCC OnLine Mad 5473</p> <p>The Petitioner, a person with locomotor disability, filed a writ petition in the nature of public interest litigation and sought a direction to ensure accessibility of all tourist places in the State of Tamil Nadu for persons with disabilities in accordance with Section 29 of RPwD Act, 2016.</p> <p>The issue in question was whether the lack of safety measures and accessibility of tourist places for persons with disabilities constitute gross negligence on part of the government.</p> <p>The HC observed that availability of accessible physical environment, transportation, information and communications, and other facilities and services available to the general public tourism are integral for equal participation of persons with disabilities in recreation and cultural life. The HC directed the government to devise a program in consultation with expert bodies to make tourist destinations in Tamil Nadu accessible for persons with disabilities in accordance with the standards of accessibility as provided under Section 40, RPwD Act, 2016 and other applicable guidelines, and to prepare and publish a travel guide of accessible tourist destinations.</p>	<ul style="list-style-type: none"> Right to access tourist places.. 	<p>Recreational Activities, Accessibility, Travel, Reasonable Accommodation</p>

69.	2022, Madras HC, Division Bench	RPwD Act, 2016: Section 2(h), 3, 29 and 16 - 18	<p>P. Ramkumar v. State of Tamil Nadu & Ors., 2022 SCC OnLine Mad 4947</p> <p>The Petitioner, a person with 100% visual disability sought issuance of a writ of mandamus to the Respondents directing them to bring out a Braille version of Thirukkural in Tamil and English languages. The Petitioner argued that this would enable persons with visual disability to read, recite, and enjoy Thirukkural on their own. The Petitioner argued that the lack of Braille versions of Thirukkural hindered cultural development and educational opportunities for persons with disability and consequently their right to participate fully in society on an equal basis with others. The Respondents argued that such books were already available in the market.</p> <p>The HC observed that while the relief sought by the Petitioner had been meted out by the Respondents, the non-dissemination of Thirukkural in accessible formats impaired the enjoyment of cultural life and inclusive education of the persons with visual disability, on an equal footing with others, which amounted to discrimination and denial of reasonable accommodation to them. The HC also stated that the Petitioner was at liberty to approach the Central Institute of Classical Tamil for receiving the braille version of Thirukkural and other texts free of cost, as per the procedure laid down therein.</p>	<ul style="list-style-type: none"> • Right to enjoyment of cultural life and inclusive education • Right to receive information in accessible formats to ensure equal access to educational materials. 	Accessibility, Braille, Literature, Culture, Education.
70.	2016, Madras HC, Division Bench	PwD Act, 1995: Section 2(t) and 2(i)	<p>C. Kathiravan v. The District Collector Collectorate Complex, Virudhunagar & Anr., 2016 SCC OnLine Mad 17501</p> <p>The Petitioner, a person with hearing disability of 75% to 100%, sought a direction to the Respondents to issue him a 'National Identity Card for Differently Abled Persons'. He had made a representation in 2015, but the card was not issued. The questions raised were whether the Petitioner was entitled to issuance of the said identity card.</p> <p>The HC noted that a person with not less than 40% disability, as certified by a Medical Authority, is eligible for a National Identity Card under the PwD Act, 1995. The District Differently Abled Welfare Officer confirmed that special camps are being organised for identification of persons with disability, and cards for the same are issued. The State Commissioner was directed to issue necessary directions to all hospitals in coordination with the Director of Public Health/ Director of Medical Services to ensure that concerned Medical Boards can issue Disability Certificates and make necessary recommendations for the issuance of</p>	<ul style="list-style-type: none"> • Right to avail benefits under welfare schemes. • Duty of state to raise awareness about rights and welfare measures. 	National Identity Card, District Differently Abled Welfare Officer, Disability Card, Awareness, Welfare Measures.

			the Cards to persons with disabilities. The HC directed the authority to issue the National Identity Card for Differently Abled Persons to the Petitioner if the conditions for issuance of the card were satisfied. Additionally, the District Collectors were directed to increase efforts towards public awareness of issuance of National Identity Cards for persons with disabilities by way of ads, news items, circulate pamphlets, and affix posters at important places to create.		
71.	2014, Madras HC, Division Bench	PwD Act, 1995: Section NA	<p>C. Muthurani v. State of Tamil Nadu & Ors., 2014 SCC OnLine Mad 12764</p> <p>Petitioner sought issuance of a writ to enforce the relevant provisions of the PwD Act, 1995, and the Rules framed thereunder for ensuring the safety and well-being of persons with intellectual disability who were residents in governmental and other institutions in Tamil Nadu. The case of the Petitioner, the District President of All India Democratic Women's Association of Madurai argued that as per news reports some female residents had been sexually abused by employees, and many residents had died under suspicious circumstances. The Petitioner apprehended that some residents might have been exploited and involved in organ trading.</p> <p>The Respondent Trust argued that it had obtained a necessary licence under the relevant provisions of the PwD Act, 1995 and Rules framed thereunder. Periodical inspections were being conducted as per the relevant provisions of law and that the home was being run in accordance with the Tamil Nadu Person with Disability Rules, 2002. It was also submitted that allegations against staff members would be taken up in accordance with established law procedures.</p> <p>The HC directed Akshya Trust to submit monthly reports to the third Respondent regarding the inmates of the Home. Information relating to persons taken as inmates was also directed to be furnished to the nearest police station before admission along with furnishing of identity of persons and further details to the police station if possible.</p>	<ul style="list-style-type: none"> Right to safety, security and well-being of persons with intellectual disability housed in governmental organisations and other institutions. 	Sexual Abuse, Intellectual disability, Safety, Dignity, Licence.
72.	2019 Manipur HC, Division Bench	RPwD Act, 2016: Section 2(r), 2(zc) and 32	<p>State of Manipur & Anr. v. Yaiphaba Laiphrakpam & Ors., 2019 SCC OnLine Mani 162</p> <p>The Respondent/Writ Petitioner, a person affected with a locomotor disability, filed a writ to direct the Appellants to consider his case for admission to the MBBS course under the State quota. The Respondent obtained 196 marks in the</p>	<ul style="list-style-type: none"> Right to reservation in terms of national legislation and rules 	Education, Reservation, Reasonable Accommodation

			<p>entrance examination, well above the cut-off marks specified for candidates under the persons with disability category.</p> <p>The Respondent/Writ Petitioner relied on Regulations 4 and 5 of the Medical Council of India Regulations on Graduate Medical Education, 1997, as amended, and the RPwD Act, 2016, to contend the candidature, which was accepted by the learned Single Judge. The Single Judge found that the disability of the Respondent is defined under Section 2(r) read with 2(zc) of the RPwD Act, 2016. The appeal challenged this order.</p> <p>The State relied on the Manipur MBBS/BDS Entrance Examination (Selection of Candidates for Nomination) Rules, 2004, as amended in 2014, and Chapter-II Rule 19 clause (iv), which reserved 3% of the total seats for persons with locomotor disorder/disability of lower limb between 50% to 70%.</p> <p>The issues before the Court were whether the Rules 2004 framed by the State of Manipur were in consonance with the RPwD Act, 2016 and whether the Respondent/Writ Petitioner was entitled to be admitted to MBBS course under the persons with disability category.</p> <p>The HC observed that the eligibility criteria for persons with locomotor disability should be in accordance with the RPwD Act, 2016 and be incorporated by the Medical Council of India in its regulations. The HC further held that the reliance placed by the Respondents on the 2004 rules had no legal basis. The conduct of selection/nomination of candidates for admission to MBBS/BDS course by the State Government in terms of its old rules which were contrary to the Regulations, 1997, as amended, was held to be highly unreasonable and unfair. The HC held the Respondent/Writ Petitioner entitled to be considered for selection under the persons with disability category in terms of the RPwD Act, 2016 and MCI Regulations.</p>	<p>framed thereunder and not arbitrary denial of admission in educational institutes.</p>	
73.	2021 Manipur HC, Single Judge Bench	RPwD Act, 2016: Section 34	<p><u>Thokchom Nidhubon Singh v. State of Manipur & Ors., 2021 SCC OnLine Mani 181</u></p> <p>The Petitioner, a person with visual disability, applied for the position of a lecturer in Manipuri pursuant to a Notification inviting applications for appointment of lecturers on contract basis. The Notification stated that reservation in terms of the RPwD Act, 2016 which requires that at least 4% of the total number of vacancies in the cadre strength in every government</p>	<ul style="list-style-type: none"> • Right to reservation proportional to the percentage of vacancies reserved 	<p>Employment, Reservation, Subcategories in Persons with Disability Quota.</p>

			<p>establishment be filled by persons with benchmark disabilities, and that 1% of this should be reserved for persons with benchmark disabilities belonging to the category of 'persons with blindness or low vision'.</p> <p>The Petitioner appeared for the written test and was recommended for appearing in the interview. However, when the final selection list was notified, only 13 candidates with disability were found to have been recommended for 688 seats and out of them only two candidates belonging to the category of persons with visual disability were recommended, whereas the State Government was required to recommend six candidates. There were 100 posts for Manipuri lecturers out of which three seats were reserved for persons with disability, one seat each for each sub-category. The Petitioner challenged the recommendation contending that they were not proportional to the subcategories of persons with disability. Out of the three candidates selected within the persons with disability category, two were within persons with locomotor disability and none from the category of persons with visual disability which was violative of the office memorandum (OM) dated 11.11.2009 issued by the Department of Personnel & Administrative Reforms (Personnel Division), Government of Manupur. The Respondents argued citing an OM dated 15.01.2018 but the same was not in operation till 2020.</p> <p>The HC found that the OM dated 11.11.2009 provided that one candidate must have been selected from each sub-category within persons with disability category and since this had not been done by the State, the Petitioner was entitled to be considered for appointment.</p>	<p>for each subcategory of persons with disability.</p>	
74.	2021, Patna HC, Division Bench	RPwD Act, 2016 : Section 25	<p>Amit Kumar Agarwal & Ors. v. Union of India & Ors., 2021 SCC OnLine Pat 2777</p> <p>Petitioners were all individuals directly or indirectly affected by Thalassemia. They approached the HC with the grievance that the condition of patients affected by Thalassemia in Bihar had become critical due to a shortage of blood and a lack of arrangements for proper treatment during Covid-19 pandemic. They contended that of Bihar's 38 districts, Thalassemia treatment facilities and blood banks were available in all the districts except Sheohar and Supaul.</p> <p>The issues before the HC were whether the State was under an obligation to make available all facilities, including blood, to patients affected by thalassemia, whether the refusal of blood on account of unavailability was a ground available</p>	<ul style="list-style-type: none"> Right to health including access to gender-sensitive health services including health-related rehabilitation. 	<p>Health, Thalassemia, State Responsibility, Medical Treatment.</p>

			<p>to the State and whether the State was obligated to pay compensation to the families of the patients affected by thalassaemia who died due to the nonavailability of adequate medical facilities.</p> <p>The HC noted that the Right to Health is a fundamental right, and the State is under an obligation to make available all facilities, including blood, to patients affected from the disability of Thalassaemia. The HC also cited Article 5 of the UNCRPD which prohibits discrimination on the basis of disability and mandates that States take all appropriate measures to ensure access to health services that are gender-sensitive, including health-related rehabilitation. The HC ordered the institution of a committee to prepare a report to be submitted to the State and directed the State to ensure proper care for all those living with Thalassaemia and for vulnerable groups as whole, and exploring the possibility of appointing a nodal officer per district for ensuring the same.</p>		
75.	2016, Punjab & Haryana HC, Division Bench	PwD Act, 1995 : Section 33	<p><u>State of Punjab & Ors. v. Paramjit Singh, 2016 SCC OnLine P&H 1814</u></p> <p>The Respondent/Writ Petitioner was a person affected by locomotor disability who sought retention in service beyond the age of 58 years in accordance with the instructions of the State Government dated 16.2.1996. He obtained a favourable order from the Single Judge, against which the State was in appeal.</p> <p>The issue before the HC pertained to extension in service beyond the age of superannuation for persons with disability after availing the benefits of retirement. The Appellants contended that the Respondent/Writ Petitioner had failed to apply for retention in service and had availed the benefits of retirement which precluded him from claiming the benefits of the notification and the extension in service.</p> <p>The HC held that the Notification and judgments of the Court are in rem and do not require every employee to make an application for extension, but rather, it was mandatory for the State to grant the extension without any formal application. The HC also ruled that the Respondent/Writ Petitioner was entitled to the service benefits of two years under the deeming fiction of law holding him to be in service. The plea of the Appellants that the Respondent/Writ Petitioner availed himself of the retiral benefits and thus should be deprived of extension in service was deemed to be misplaced by the Court. The HC declined to interfere with the judgement of the learned Single Judge and dismissed the appeal.</p>	<ul style="list-style-type: none"> • Right to avail benefit under state schemes without formal application in each case. 	Employment, Retention, Superannuation, Welfare Measures, Reasonable Accommodation

76.	2016, Punjab & Haryana HC, Division Bench	PwD Act, 1995: Section NA	<p>Managing Director & Ors. v. Khariti Lal & Ors., 2016 SCC OnLine P&H 18593</p> <p>The Respondent was a person with disability to the extent of 75% and was entitled to consideration for extension in service beyond the age of 58 in terms of government instructions. Despite serving the Appellants till the age of 58, the Respondent was denied further extension based on a letter from the District Manager who falsely claimed the Respondent was incapable of performing his duties. The Managing Director accepted this claim without considering the Respondent's previous record of efficiency. The HC concluded that the learned Single Judge was correct in accepting the Respondent's claim.</p> <p>The HC directed the Appellants to release all consequential benefits, including arrears of pay to the legal heirs of the Respondent, to be paid from the date of his death and all terminal benefits for which he is entitled under the law.</p>	<ul style="list-style-type: none"> Right to avail benefit under state schemes, including extension in employment. 	Employment, Retention, Superannuation, Welfare Measures, Reasonable Accommodation
77.	2019, Punjab & Haryana HC, Division Bench	PwD Act, 1995: Section 2(t), 32 and 33	<p>Poonam Manchanda v. Union of India & Ors., 2019 SCC OnLine P&H 2710</p> <p>The Petitioner was a person with disability and her disability certificate stated that her disability was to the extent of 70% because of post-polio residual palsy of both lower limbs. The Petitioner during her appointment as Assistant Accounts Officer, or after her promotion to the post of Accounts Officer did not claim reservation under persons with disability category but requested such reservation for promotion for the post of Senior Accounts Officer (SAO - Group A). The Petitioner was informed via an order that reservations for persons with disabilities were not provided for promotion in this scale of posts. The Petitioner challenged the order stating that it deprived persons with disability the statutory benefit of reservation under the PwD Act, 1995 with respect to Group A and Group B posts.</p> <p>The HC stated that Section 33 of the PwD Act, 1995 mandated the appropriate Government to reserve not less than 3% of identified posts in favour of persons with disabilities. A joint reading of Sections 32 and 33 of the PwD Act, 1995 brought forth a fine and designed balance between the requirements of administration and the imperative to provide greater opportunities to persons with disability. Once a post was identified, it meant that a person with disability was fully capable of discharging the functions associated with the identified post. Once found to be capable, reservation under Section 33 of the PwD Act, 1995 to an extent of not less than 3% ought to have been provided. Once the post was</p>	<ul style="list-style-type: none"> Right to get reservations, irrespective of mode of recruitment and post. 	Employment, Reservation, Promotion, Recruitment

			identified, it ought to have been reserved for persons with disability irrespective of the mode of recruitment adopted by the State for filling up the said post. Therefore, the impugned memoranda deprived the Petitioner of the statutory benefit of reservation under the PwD Act, 1995 with respect to Group A and Group B posts and the Respondents were directed to consider Petitioner's case for promotion under the 3% reservation for persons with disability.		
78.	2015, Punjab & Haryana HC, Single Judge Bench	PwD Act, 1995 : Section 47, 62	<p><u>Punjab National Bank v. Commissioner, Persons with Disabilities & Anr., 2015 SCC OnLine P&H 13436</u></p> <p>The Petitioner (Bank) challenged an order from the Commissioner, Persons with Disabilities, Social Justice and Empowerment (Commissioner), directing the Petitioner (Bank) to make payment of salary to an employee who was a person with disability, affected by an injury while in service of the Petitioner. The Petitioner argued that the benefit of Section 47 of the PwD Act, 1995 could only be granted to employees whose disabilities were caused during the course of their duties.</p> <p>The HC rejected this argument, stating that the legislature used the word 'during service' and the beneficial legislation could not be restrictively interpreted to say that the word 'service' meant duties. The HC also rejected the argument that the Commissioner did not have the power to pass such an order, citing Section 62 and Rule 42 of the PwD Act, 1995. The HC dismissed the petition.</p>	<ul style="list-style-type: none"> • Right to get salary for periods of employment where such period of employment would mean "during service" and not be restricted to only "duties". 	Employment, Salary, Disability caused during Service, Reasonable Accommodation
79.	2020, Rajasthan HC, Single Judge Bench	<p>RPwD Act, 2016 : Section 3(3) and 4;</p> <p>PwD Act, 1995 : Section 2(t), 2(r) and 2(s);</p> <p>PwD Rules, 2011 : Rule 35 and 36</p>	<p><u>Rekha Meena v. State of Rajasthan & Ors., 2020 SCC OnLine Raj 1946</u></p> <p>The Petitioner applied for the post of Nurse Grade-II in the TSP area under the category of TSP-ST (Female), without claiming any reservation under the category - Persons with Disabilities. When the Petitioner appeared for documents verification, the Respondents conducted her medical examination. Thereafter, her name was not included in the provisional select list, despite having secured 50.825 marks, whereas the cut-off for her category [TSP-ST (Female)] was 49.709 marks. Respondents rejected her candidature citing the following reason: "Out of other PH category".</p> <p>The Petitioner contended that since she had applied without claiming any reservation as a Person with Disability, hence, her right of being considered as a TSP-ST (Female) candidate could not be denied. It was further argued that the</p>	<ul style="list-style-type: none"> • Right to non-discrimination due to disability less than 40%, including denial of appointment. 	Employment, Reservation, Medical Certificate, Benchmark Disability., Discrimination

			<p>Respondents could not take into consideration the Petitioner's disability, which too is to the extent of 24% (less than 40%) in one arm (hand) to non-suit her.</p> <p>The Respondent argued that the post of Nurse Grade-11 had been earmarked or identified for persons with locomotor disability - OL (One Leg) and as such a person with that disability alone, was suitable or fit for appointment. And not the Petitioner, who had 24% disability in one arm.</p> <p>The HC held that the Respondents were not justified in subjecting the Petitioner to medical examination, as she had not applied under persons with disability category. The HC also held that the Petitioner, having 24% disability in one arm, could not be treated as a person with disability or a person with benchmark disability. It was declared by the HC that a person with physical disability (more or less than 40%) could not be denied appointment in case he/she did not claim reservation available to persons with disability, and the appointment could be subservient on the production of certificate of fitness of Medical Officer. The Respondents were directed to issue an appointment order to the Petitioner after her credential in relation to educational qualification (ignoring her physical disability) were found in order and the Petitioner was directed to produce a certificate of fitness issued by a competent Medical Authority.</p>		
80.	2016, Rajasthan HC, Single Judge Bench	<p>PwD Act, 1995 : Section 33;</p> <p>PwD Rules, 2011 : Rule 36 and 37</p>	<p><u>Dr. Vandana Yadav v. Jai Narayan Vyas University, Jodhpur & Anr., 2016 SCC OnLine Raj 138</u></p> <p>The Petitioner, a candidate with 60% disability, was denied appointment to the post of Assistant Professor in the Department of Business Administration/Business Management. The Petitioner filed a complaint before the Commissioner for Persons with Disabilities, Social Justice and Empowerment Department, Jaipur, and the Commissioner concluded that the university had not followed Section 33 of the PwD Act, 1995, and Rules 36 and 37 of the PwD Rules, 2011. The Petitioner through the writ petition sought a direction for implementation of the Commissioner's order and challenged the order that denied her appointment.</p> <p>The Respondent contended that the Petitioner could not be offered an appointment as she was not found suitable for the post.</p> <p>The HC noted that once there is an order of the Commissioner under the PwD Act, 1995, the Respondent had two options, either to offer her appointment or to</p>	<ul style="list-style-type: none"> • Right to get employment through reservation. 	Employment, Reservation, Non-Discrimination

			challenge the said order in appeal. Since no appeal had been preferred till that date, the Respondents were bound to comply with the directions given by the Commissioner. The HC also noted that there were still vacancies in the stream of Business Management/Business Administration, so no one else would be affected and hence there was no reason to deny the Petitioner's appointment. The HC allowed the writ petition and directed the Respondents to comply with the directions issued by the Commissioner within a period of one month from the date of receipt of the certified copy of the HC's order.		
81.	2016, Rajasthan HC, Single Judge Bench	PwD Act, 1995 : Section 43	<p><u>Naresh Kumar Sewak v. Rajasthan Housing Board, Dungarpur, 2016 SCC OnLine Raj 970</u></p> <p>The Respondent-Housing Board launched a scheme called the Shivaji Nagar Housing Scheme, 2014, which reserved 3% of the houses for persons with disability, sub-categorised as G-9A, G-9B, and G-9C, with 1% each for persons who with vision disability, persons with disability and non-verbal persons respectively. When the draw of lots was conducted, no house was allotted to the G-9 category.</p> <p>The Respondents contended that no house could be allotted on account of the quota being only 0.24 percent.</p> <p>The HC held that the inaction of the Respondent in not conducting the draw of lot for allotment of the house to the persons with disability was illegal and arbitrary. The HC directed the Respondent-Rajasthan Housing Board to conduct the draw of lot for allotment of one house under the Shivaji Nagar Housing Scheme, 2014, at Dungarpur, to the persons with disability and issue the allotment letter in favour of the successful applicant.</p>	<ul style="list-style-type: none"> • Right to non-discrimination. 	Housing, Reservation, Non-Discrimination
82.	2016, Rajasthan HC, Single Judge Bench	PwD Act, 1995: Section 2	<p><u>Naresh Kumar v. State & Anr., 2016 SCC OnLine Raj 1118</u></p> <p>The Petitioner filed a writ petition seeking directions to the Respondents to consider her case for appointment to the post of Homoeopathic Doctor, pursuant to an advertisement, in the category of SC/persons with physical disability. Despite having a certificate showing a 40% permanent disability due to Kyphoscoliosis, the Petitioner was not considered in the category of persons with disability on account of the fact that the post of Homoeopathic Doctor was</p>	<ul style="list-style-type: none"> • Right to non-discrimination on the basis of disability. Act, 1995. 	Employment, Reservation, Medical Board Certification, Non-Discrimination

			<p>reserved for a person with disability who has a disability of "either one leg or both legs".</p> <p>The HC held that as per the definition of locomotor disability under Section 2(o) of PwD Act, 1995, any disability of the bones, joints, or muscles that leads to substantial restriction of movement of the limbs would be covered under the PwD Act, 1995. The Petitioner's case to be considered for appointment in the category of SC/persons with physical disability, according to merit, based on the certificate issued by the Medical Board, recognizing the Petitioner's permanent locomotor disability.</p>		
83.	2015, Rajasthan HC, Division Bench	PwD Act, 1995: Section NA	<p><u>Dharm Pal Yadav v. University of Rajasthan & Anr., 2015 SCC OnLine Raj 12032</u></p> <p>The Appellant-Petitioner had applied for the post of Assistant Professor for the subject 'Accountancy and Business Statistics' (ABST) in the OBC, persons with disability category. However, his candidature was rejected, and his writ petition against this was dismissed by the Single Judge on the ground that candidates with physical disability had to be treated as a separate category and could not be considered in any particular category of SC/ST/OBC, which was also the contention of the Respondent university.</p> <p>The HC observed that horizontal reservations for persons with disability cut across vertical reservations for SC/ST and OBC categories. The horizontal reservation for candidates with disability could not be shown in any one of the categories of social reservations, as they were separate categories.</p> <p>The advertisement published by the University of Rajasthan, Jaipur, clearly provided for horizontal reservations for candidates who are persons with disabilities to be adjusted in the vertical reservations for SC/ST and OBC. The HC found that the judgement of the Single Judge was based on wrong principles of reservations and set it aside. It also directed the Respondent University to consider and give appointment to the Appellant to the post of Assistant Professor against one vacancy reserved for candidates who are persons with disability in OBC category.</p>	<ul style="list-style-type: none"> • Right to horizontal reservation for persons with disabilities to be adjusted in category-specific vertical reservation. 	Employment, Horizontal and Vertical Reservation

84.	2022, Telangana HC, Division Bench	<p>RPwD Act, 2016 : Section 2(s), 2(c), 2(t), 3, 33 and 34;</p> <p>PwD Act, 1995 : Section NA</p>	<p><u>Sanjeeva Reddy v. State of Telangana & Ors., 2022 SCC OnLine TS 2928</u></p> <p>The Appellant, a person with orthopaedic disability since birth due to post polio paralysis to the extent of 57%, had filed a related writ petition to the Single Judge in the HC challenging the minimum qualifying marks prescribed for him as a person with disability. The Appellant was deemed to be from 'Open Category' and had failed to secure the minimum 40% qualifying marks. The Appellant submitted that his cut-off as a person with disability should be at par with candidates belonging to SC and SC categories at 30% and therefore filed a writ petition before the Single Judge of the HC. The Single Judge of the HC held that it was not open to the Appellant to demand changes in the minimum qualifying marks for him as a person with disability and disagreed with the contention that the cut-off marks for both disability and SC/ST categories should be at par with each other. The Appellant thus filed an appeal before the Division Bench of the HC.</p> <p>The Division Bench of the HC held that not providing minimum qualifying marks for persons with disabilities to be at par with SC/ST candidates was wholly untenable which was an aspect not considered by the Single Judge before. Furthermore, the HC held that limiting reservation for persons with disabilities to only two vacancies out of 151 notified vacancies, was contrary to the mandate of Section 34 of the RPwD Act, 2016. The HC set aside the order of the Single Judge and directed the Respondents to make the cut-off mark for persons with disability to be at par with the cut off for SC/ST categories, i.e., 30%.</p>	<ul style="list-style-type: none"> • Right to have the same cut off for categories of persons with disability and SC/ST persons. 	<p>Reasonable Accommodation , Reservation, Employment, Eligibility</p>
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85.	2020, Telangana HC, Single Judge Bench	<p>PwD Act, 1995 : Section 2 and 47;</p> <p>MH Act, 2017 : Section 3(5);</p> <p>MH Act, 1987 : Section 24 and 25</p>	<p><u>R. Sampath v. Union of India & Ors., 2020 SCC OnLine TS 3368</u></p> <p>The Petitioner who was working as a constable in Central Industrial Security Force was placed under suspension and later was compulsorily retired from service with full pensionary benefits on the allegation of assaulting a commander. The Petitioner challenged the order of compulsory retirement citing health reasons, particularly Bipolar Mood Disorder for which he was undergoing treatment at that time, and denial of reasonable opportunity during the disciplinary proceedings. Petitioner also placed reliance on Section 47 of the PwD Act, 1995 to submit that a person affected by a disability could not be visited with punishment and, thus the action was violative of the law. The Respondent argued that the Petitioner's conduct had been poor throughout his service and that he had been in the habit of quarrelling with higher officials and co-employees while on duty.</p> <p>The HC found that the order of compulsory retirement violated the PwD Act, 1995 and the MH Act, 2017 since a person affected by an intellectual disability could not be said to be competent to participate in domestic enquiry, which is structured on the lines of criminal trial and effectively defend himself. Therefore, the HC found the order of compulsory retirement unsustainable and set it aside. The matter was remitted to the disciplinary authority with the direction to reinstate the Petitioner and refer him to Medical Board for assessment and thereafter, take all further steps as required by law.</p>	<ul style="list-style-type: none"> • Right against termination on account of intellectual disability. 	<p>Reasonable Accommodation , Employment, Bipolar Disorder, Disciplinary Proceedings, Retirement, Suspension, Domestic Enquiry, Medical Board, Non-Discrimina tion</p>
86.	2017, Telangana HC, Single Judge Bench	<p>RPwD Act, 2016: Section 3 and 20</p> <p>PwD Act, 1995: Section NA</p>	<p><u>K. Srinivasa Rao v. APSRTC & Anr., 2017 SCC OnLine Hyd 615</u></p> <p>The Petitioner, a person with disability, was rejected for employment under the 'Bread Winner Scheme' for the post of Conductor and Driver due to his physical disability. The Petitioner argued that the Respondent's rejection of Petitioner's claim for employment on grounds of unsuitability for the posts due to 100% physical disability is discriminatory and violative of his rights.</p> <p>The HC held that discrimination against any person based on disability was a violation of their inherent dignity, honour, and self-esteem. The HC directed the State to consider the Petitioner's claim for employment and provide suitable employment under the Bread Winner Scheme or any other scheme for persons with disability according to their suitability and eligibility to any posts other than the posts of Driver, Conductr, Shramik and Constable. The HC cited the RPwD</p>	<ul style="list-style-type: none"> • Right to be provided suitable employment. 	<p>Employment, Non-Discrimina tion, Dignity, Eligibility for Recruitment, Reasonable Accommodation</p>

			Act, 2016, which prohibits discrimination on the ground of disability unless the concerned authority showed that the act or omission was a proportionate means of achieving a legitimate aim. The writ petitions were allowed.		
87.	2016, Telangana HC, Single Judge Bench	PwD Act, 1995: Section 2(t), 33, 38 and 47	<p><u>M. Venkateswarlu v. Andhra Pradesh State Road Transport Corporation & Ors., 2016 SCC OnLine Hyd 13</u></p> <p>The Petitioners, who were drivers with the Respondent were declared medically unfit to continue to work as drivers due to low vision disability acquired in the course of employment. They were, however, certified fit for alternative employment. They approached the Court and claimed protection under Section 47 of the PwD Act, 1995.</p> <p>The Respondents argued that their ailments were not covered by the definition of 'disability' in Section 2 of the PwD Act, 1995.</p> <p>HC held that the Petitioners were entitled to protection under Section 47 of the PwD Act, 1995, pay and allowances for the period they were put off duty. The HC stated that a person who acquired disability while in employment and was consequently declared unfit to work as a driver but capable of doing any other job with equal competence could not be denied the right to work with dignity, honour, and self-respect. The HC ordered the Respondents to provide alternative job or keep the Petitioners in a supernumerary post until a suitable post is available or until they attain the age of superannuation, whichever is earlier, and pay them pay and allowances of the post of drivers until they attain the age of superannuation.</p>	<ul style="list-style-type: none"> • Right to dignified alternative employment. 	Employment, Pay and Allowances, Probation, Alternate Employment, Dignity, Non-Discrimination, Reasonable Accommodation
88.	2022, Tripura HC, Division Bench	RPwD Act, 2016 : Section 3(5)	<p><u>Pratibandi Punarvas Samiti & Anr. v. State of Tripura & Ors., 2022 SCC OnLine Tri 650</u></p> <p>The Petitioner challenged an advertisement issued by the Tripura Public Service Commission (TPSC) that did not mention any reservation for persons with disability. The Petitioner argued that it was the duty of the State of Tripura and the TPSC to ensure reservation of posts for persons with disabilities as required under the RPwD Act, 2016, especially Section 3(5), to take necessary steps to ensure reasonable accommodation for persons with disabilities, and the Tripura Scheduled Castes and Scheduled Tribes Reservation Act, 1991.</p> <p>The Respondents contended that there was no post reserved for the category of persons with disability, and therefore, no reservation for persons with physical</p>	<ul style="list-style-type: none"> • Right to reservation in public employment. 	Employment, Reservation, Government Advertisements, Relaxation of Age Requirements, Reasonable Accommodation

			<p>disability was mentioned in the advertisement. The State also mentioned that 144 medical officers had already been appointed by the State pursuant to the advertisement issued by the TPSC.</p> <p>The issue was whether the TPSC and the State of Tripura failed to ensure reservation of posts for persons with disabilities as required by law.</p> <p>The HC did not interfere with the 144 medical officers who were already appointed by the State through the advertisement issued by the TPSC. Instead, the TPSC was directed to follow the reservation policy in the future, including the 20 posts that remained unfilled and for any others that would be notified by the State for persons with disability candidates, including provisions for relaxation of age.</p>		
89.	2022, Tripura HC, Single Judge Bench	<p>RPwD Act, 2016 : Section 2(s), 2(r) and 2(c)</p> <p>PwD Act, 1995: Section 2(t), 2(i) and 47;</p>	<p><u><i>Bijoy Kumar Hrangkhawl v. Tripura State Electricity Corporation Limited (TSECL) & Ors., 2022 SCC OnLine Tri 547</i></u></p> <p>The Petitioner was affected by disability after an accident while discharging his duties. The Petitioner was unable to attend his duties due to the disability. The Respondents claimed that they paid the Petitioner's salary until 16.03.2020. However, the Petitioner was not paid his salary and allowances after 16.03.2020 despite being willing to work despite his disability. The Respondents treated his absence as unauthorised and did not accept his joining report or leave application on the pretext that he did not report to the joining authority in person.</p> <p>The issue was whether the Petitioner's services were terminated or reduced in rank due to his disability, and if he is entitled to protection under Section 47 of the PwD Act, 1995 or the 2016 RPwD Act.</p> <p>Section 47 of the PwD Act, 1995 protects the employment of employees who acquire a disability during their service. The RPwD Act, 2016 recognizes more disabilities and provides for special provisions for persons with benchmark disability.</p> <p>The HC directed that the State Respondents must pay all the cumulative dues such as salary, allowances, etc. and regularise his service conditions by recalling the earlier order passed treating his absence as unauthorised. The HC also</p>	<ul style="list-style-type: none"> • Right to all cumulative dues such as salary, allowances etc. in the event of disability being acquired during service. 	<p>Employment, Salary, Allowance, Reasonable Accommodation , Unauthorised Absence from Employment</p>

			directed that the Petitioner should be assigned either to his previous duties if he was able to perform them, or the Respondents were to pay all service benefits, including promotion, until a suitable post was available which he may be able to discharge or he reached the age of superannuation. The Respondents were directed to provide a suitable environment and reasonable accommodation. Finally, the HC directed the Petitioner to appear before the Medical Board of the State Government within seven days to verify the extent of his disability in line with the RPwD Act, 2016.		
90.	2022, Tripura HC, Single Judge Bench	RPwD Act, 2016: Section 2(r)	<p><u>Asit Chakraborty v. State of Tripura & Ors., 2022 SCC OnLine Tri 606</u></p> <p>The Petitioner, was transferred to Bishalgarh, Sepahijala District but subsequently released from the transfer. The Petitioner's wife had low vision with 70% disability, and the State Recognized Medical Board issued a Disability Certificate in her favour. The General Administration (P & T) Department's Memorandum dated 15.11.2021, exempted the Petitioner from transfer as he was a caregiver to his dependent wife.</p> <p>The issue in question was whether the transfer and subsequent release order issued against the Petitioner was ought to be set aside and quashed due to available exemption from transfer under the Memorandum dated 15.11.2021, as he was a care-giver to his dependent wife.</p> <p>The HC took into account the beneficial reasoning of the state's policy and found no significant reason for the transfer. The HC set aside and quashed the transfer and subsequent release order issued against the Petitioner.</p>	<ul style="list-style-type: none"> Caregivers of persons with disability can avail exemption from transfer. 	Employment, Reasonable Accommodation, Specified Disability, Caregivers, Transfer
91.	2020, Tripura HC, Single Judge Bench	PwD Act, 1995 : Section 32, 33, 36 and 38	<p><u>Shishir Kanti Sarkar v. State of Tripura & Ors., 2020 SCC OnLine Tri 361</u></p> <p>The Petitioner had requested a direction to the Respondents to appoint him to the post of Personal Assistant, Grade-II of the Stenographer service on the carry forward unfilled vacancy for candidates who are persons with disability in Scheduled Caste (SC) category. The Notification for filling up of four vacancies reserved for SC candidates did not contain the name of the Petitioner as no recommendation was made for filling up of vacancy for persons with physical disability in SC category.</p> <p>The Petitioner argued that the Respondents made an error in carrying forward</p>	<ul style="list-style-type: none"> Right to claim reservation in the Scheduled Caste category. 	Employment, De-reservation, Horizontal and Vertical Reservation, de-reservation

		<p>the vacancy for a candidate who is a person with disability when no suitable candidate from that category was available even after the third attempt. It was contended that if no person with a disability candidate was selected on the third attempt, the vacancy should have been filled by any other SC candidate. The Petitioner argued for harmonious interpretation of Section 38 of the PwD Act, 1995, and in case of conflict the central legislation should have prevailed.</p> <p>The Respondent-State argued that the vacancy for a SC candidate with disability could only be de-reserved after three failed attempts, and that such de-reservation would have occurred only in the subsequent recruitment process. It was also stated that since the Petitioner's score was lower than the last recommended SC candidate, he could not have been recommended. The Respondent relied on a Government order from 2010 which emphasised on the need to not reduce the percentage of reservation for persons with disabilities, and a government order from 2001 that clarified that unfilled vacancies for candidates with disability would be carried forward to the next recruitment year.</p> <p>Section 36 of the PwD Act, 1995 prohibits the de-reservation of the vacancy reserved for candidates with a disability in the first recruitment year, unless certain conditions are met in the second year of recruitment.</p> <p>The HC considered the following issues: whether the reserved vacancy for persons with disability candidates in the first year of recruitment could be de-reserved in the second year; whether Rule 13(6) of the SC/ST Reservation Rules, 1992 ought to be read with Section 36 the PwD Act, 1995; and whether the Petitioner was justified in claiming de-reservation of the vacancy of SC (persons with disability).</p> <p>The HC held that the requirement of attempting to fill the vacancy through interchanging vacancies should have been read into the rule and therefore, the Petitioner was justified in claiming de-reservation of the SC (persons with disability) vacancy, which was the fifth vacancy for the SC category. The Respondents should have filled this vacancy and the HC directed them to appoint the Petitioner to the post of Stenographer, Grade II in Scheduled Caste category from the date of other candidates' appointments, and in the event of no existing vacancy to appoint him immediately upon availability of the next vacancy in the same category.</p>		
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92.	2017, Tripura HC, Single Judge Bench	PwD Act, 1995 : Section 32 and 33	<p><u>Prabir Datta v. State of Tripura & Ors., 2017 SCC OnLine Tri 41</u></p> <p>The Petitioner, an aspirant for recruitment to Tripura Civil Service, Grade-II, challenged the Tripura Public Service Commission's advertisement, which invited applications for selection to Tripura Civil Service, Grade-II and Tripura Police Service, Grade-II. The Petitioner, a person with disability with low vision, argued that the reservation rule could not be applied to the posts or vacancies reserved for persons with disability and if someone from SC & ST category had been selected, then the said person would be adjusted against reserved category post vertically. The issue up for consideration before the Court was whether the reservation rule can be applied to posts or vacancies earmarked for persons with disability.</p> <p>The Petitioner argued that Section 33 of the PwD Act, 1995 prohibited the reservation rule from applying to posts or vacancies for persons with disability. An order from 2001 earmarked a 3% reservation for persons with disability. The Petitioner argued that this was contradictory to Sections 32 and 33 of the PwD Act, 1995 and therefore could not stand the scrutiny of law even if it was not specifically challenged.</p> <p>The HC differentiated between vertical reservations (for Scheduled Castes, Scheduled Tribes, and other backward classes) and horizontal reservations (for persons with disability). The reservation for backward classes is vertical, while that for persons with disabilities and ex-servicemen is horizontal. The HC held that Section 33 of the PwD Act, 1995 prohibits the reservation rule from applying to posts or vacancies earmarked for persons with disability. Additionally, the HC held that the reservation for backward classes could not be applied to posts identified for persons with disabilities before selection and recruitment. The advertisement in question, with regards to individuals with disabilities, did not hold up to legal scrutiny and was therefore deemed invalid. The HC directed the Respondents to publish a new schedule that would allow all eligible individuals with disabilities to apply and take part in the selection process.</p>	<ul style="list-style-type: none"> • Right to reservation in employment aside from the horizontal reservation. 	Recruitment, Employment, Horizontal and Vertical Reservations
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93.	2016, Tripura HC, Single Judge Bench	PwD Act, 1995: Section 47	<p><u>Gouri Das v. State of Tripura & Ors., 2016 SCC OnLine Tri 301</u></p> <p>The Petitioner had a locomotor disability of 75%. She was promoted to the post of Child Development Project Officer and posted to Gournagar by a 2011 order, but due to difficulty in commuting from her place of residence at Kumarghat to Gournagar, made repeated requests for her transfer to Kumarghat. After such requests not being considered, the Petitioner surrendered the promotion and was posted back as Junior Social Education Organizer, Kumarghat. Later, despite meeting the requirements for promotion to the post of Supervisor, the Petitioner was not promoted. The Petitioner contended that she was entitled to the protections and benefits and that the State had violated Section 47 of the PwD Act, 1995. The Petitioner prayed that the Court set aside the original memo that demoted her and sought directions to the State to give her the benefits of the promotion on the ground that the original memo of demotion only occurred because the State did not consider multiple transfer requests made by her. The Respondents argued that since the Petitioner had already surrendered her promotion and was reverted to her original post, she could not claim the benefit of the original promotion order from 2011.</p> <p>The issues were whether the Petitioner was entitled to promotion under the PwD Act, 1995, whether the Respondents violated the provisions of Section 47 of the PwD Act 1995, and whether the Petitioner should have been posted in a place of her choice.</p> <p>The HC observed that Section 47 of the PwD Act, 1995 prohibited employers from dismissing or downgrading an employee who acquires a disability during their service, as was the case of the Petitioner. The HC stated that since the Petitioner approached the Court only after the acceptance of the demotion order, she could not claim that she should now be given benefits of the promotion from 2011. The HC recognized that despite being eligible for a promotion, the Petitioner was not considered for the position of Supervisor in 2012. The HC directed the Respondents to promote the Petitioner in accordance with her seniority, with retrospective effect notionally. It further directed that if a promotional post became available at a location preferred by the Petitioner, she be posted there to enable her to work comfortably.</p>	<ul style="list-style-type: none"> • Right to promotion and against demotion. • Right to transfer to a place of convenience. 	Employment, Promotion, Transfer, Non-Discrimination, Reasonable Accommodation
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94.	2018, Uttarakhand HC, Division Bench	<p>MH Act, 2017: Section 2(g), 2(o), 2(s), 3(1), 3(2), 5, 14, 18, 20, 29, 30, 45, 65, 73, 86, 87, 95, 97, 100, 121 and 123</p>	<p><u>Dr. Vijay Verma v. Union of India & Ors., 2018 SCC OnLine Utt 519</u></p> <p>The petition was filed for framing of a policy by the State Government for ameliorating the conditions of children with intellectual disabilities by taking into consideration the challenges faced by them including the violation of their rights due to the lack of policies, not registering them within six months of their birth, not providing access to basic mental healthcare services, subjecting them to electro-seclusion or solitary confinement, and allowing persons with intellectual I disabilities to be abandoned and left out on the streets.</p> <p>The HC directed the State Government to prepare a comprehensive policy for rehabilitating children and persons with intellectual disability, not subject any person with such disabilities to electro-seclusion or solitary confinement, register children with intellectual disabilities within six months of birth, and ensure that no person with mental and intellectual disability is abandoned and left in lurch on the streets.</p>	<ul style="list-style-type: none"> • Right to State protection by framing policies and measures to address needs and conditions of persons with intellectual disabilities. 	<p>Discrimination, Healthcare, Accessibility, Persons and Children with Intellectual Disability, Equality, Dignity</p>
95.	2018, Uttarakhand HC, Division Bench	<p>RPwD Act, 2016 : Sections 33 and 34;</p> <p>PwD Act, 1995: Section 32 and 33</p>	<p><u>Umesh Kumar Tripathi v. State of Uttarakhand & Ors., 2018 SCC OnLine Utt 865</u></p> <p>The Petitioner, who was affected by a physical disability to the extent of 60%, claimed reservation in promotion to the post of Regional Manager. The impugned memoranda that denied him the benefit of reservation were declared illegal and inconsistent with the PwD Act, 1995. The Petitioner contended that the Office Memorandum that denied the benefit of reservation to persons with disabilities in promotion to Group A and B posts was against the provisions of the RPwD Act, 2016, which reserves one post for persons with benchmark disabilities under clauses (a), (b), and (c) for every one hundred posts.</p> <p>The issue before the Court was whether reservation in employment available to persons with disabilities extended to promotion to Group 'A' & 'B' as it did for promotion to Group 'C' and 'D' posts.</p> <p>The HC held that reservation for persons with disabilities was provided by a central legislation and could not be denied solely on the ground that service rules did not provide for such reservation. Reservation for persons with disabilities did not depend on the identification of posts and that no distinction could be made between Group A and B posts and Group C and D posts regarding reservation for persons with disabilities. The Court held that the provisions of Section 32 of the</p>	<ul style="list-style-type: none"> • Right to reservation in promotion irrespective of post. • Right to reservation cannot be dismissed or ignored by administrative order. 	<p>Employment, Reservation, Promotion, Vacancies, Identification of Posts, Equality</p>

			<p>PwD Act, 1995 were not intended to be used as a tool to deny the benefits of Section 33 to persons with disability in Groups A, B, C, and D posts.</p> <p>The Respondent was directed to issue necessary instructions regarding reservation in promotion to persons with disability in terms of first proviso of Section 34 of the RPwD Act, 2016.</p>		
96.	2017, Uttarakhand HC, Single Judge Bench	PwD Act, 1995 : Section 38 and 39	<p><u>Balam Singh Adhikari v. State of Uttarakhand & Ors., 2017 SCC OnLine Utt 253</u></p> <p>The Petitioner, who had a 60% permanent hearing disability and all qualifications required for the post of Assistant Teacher - LT Grade (Science), was an applicant in the selection process initiated by the Government of Uttarakhand under the persons with disability quota in the General category. He was subsequently selected and appointed under the persons with disability category and was allotted a school. Subsequently his appointment was cancelled on the ground that he was relying upon a disability certificate, which was obtained after the date of advertisement.</p> <p>The Petitioner contended that he was entitled to be considered under the category of persons with disabilities as it was not a case where the physical disability itself occurred after the date of the advertisement.</p> <p>The Respondents contended that in the first instance the candidature of the petitioner was not even liable to be considered by the selection committee, inasmuch as there was a clear condition in the advertisement that any incomplete application which is not properly accompanying the documents, will be liable to be rejected.</p> <p>The HC ruled that the rejection of the Petitioner's candidature was not justified, as he had filed the medical certificate of his disability and there was no doubt as to the factum of his disability.. The impugned order was quashed, and the Additional Director was directed to appoint the Petitioner on the post of Assistant Teacher - LT Grade (Science) as a person with disability, if possible, at the earlier place of posting, or at a suitable place considering his physical disability. The State Government was directed to identify Government Departments where persons with disability could be employed, and adhere to Section 39 of the PwD Act, 1995 which stated that educational institutions must reserve 3% of the seats for persons with disability.</p>	<ul style="list-style-type: none"> • Right to not be disqualified from employment if a disability certificate is obtained after the date of advertisement. 	Employment, Recruitment, Reservation, Medical Certificate, Educational Institutes

97.	2016, Uttarakhand HC, Division Bench	PwD Act, 1995: Section 32 and 33	<p><u>Dr. Kamla Chanyal v. State of Uttarakhand & Anr., 2016 SCC OnLine Utt 2496</u></p> <p>The Petitioner, a person with disability, challenged an office memorandum (OM) issued by the Uttarakhand Government which denied the benefit of reservation to persons with physical disability for promotion to Group A & B posts for the reason that these were to be filled up by way of promotion and created an arbitrary and illegal classification between Group A & B posts vis-a-vis Group C & D posts for the purpose of promotion under Section 33 of PwD Act, 1995.</p> <p>The Court ruled that the impugned memoranda are illegal and inconsistent with the PwD Act, 1995. The HC rejected the contention that the provisions of Section 33 of the PwD Act, 1995, should be implemented only after identification of posts suitable for such appointment, under Section 32 thereof. The HC held that reservation under Section 33 of the PwD Act, 1995 was not dependent on identification, and the appropriate Government had a duty to make appointments in the number of posts reserved for the three categories mentioned in Section 33 of the PwD Act, 1995 in respect of persons affected by the disabilities spelt out therein.</p>	<ul style="list-style-type: none"> • Right to reservation in promotions. 	Employment, Promotion, Identification of Posts
98.	2016, Uttarakhand HC, Single Judge Bench	PwD Act, 1995: Section NA	<p><u>Bhuvan Rauthan v. State of Uttarakhand & Ors., 2016 SCC OnLine Utt 2461</u></p> <p>The Petitioner was a person with 100% hearing and speech impairment who had been working as a Data Entry Operator with the Watershed Management Department since 1996. In 2001, the Petitioner's case was recommended for absorption under the 3% quota reserved for persons with disability, but nothing was done. Other contractual or daily rated workers in the Department filed a writ petition for regularisation, which was granted by the Court, but the Petitioner was not included.</p> <p>The Petitioner filed a writ petition for regularisation, but the Department objected, stating that the Petitioner was not working against the sanctioned post. There were two regularisation rules in force in Uttarakhand, and the Petitioner could be considered for a vacancy equivalent to the one on which he had worked. The Petitioner had worked in the department for the last twenty years with uninterrupted service and was a person with disability.</p> <p>The HC allowed the writ petition and ordered the Department to regularise the Petitioner as it has done for other employees.</p>	<ul style="list-style-type: none"> • Right to get regularisation in employment. 	Employment, Regularization, Reservation

