



**116 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CWP-23677-2025

Date of decision: 18.08.2025

Bijender Singh and another

....Petitioners

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Raj Kumar Makkad, Advocate and
Mr. Himalya Makkad, Advocate
for the petitioners.

Mr. Sanjeev Kaushik, Advocate,
Mr. Divyanshu Kaushik, Advocate,
Ms. Simran Sharma, Advocate and
Ms. Anisha Rana, Advocate
for respondent No.3.

HARPREET SINGH BRAR, J. (ORAL)

1. The present writ petition is preferred under Article 226/227 of the Constitution of India seeking issuance of writ in the nature of *certiorari* in order to set aside communication made by respondents No.3 and 4 on their web portal whereby employees with bench mark disabilities were provided less options of offices for transfer than those who are able bodied.

2. Briefly, the facts are that petitioner No.1 is presently posted as a Junior Engineer with respondent-HVPNL in Rohtak and has a 40% locomotor disability while petitioner No.2 is serving as Assistant Executive Engineer in Daulatabad and has a severe permanent locomotor ability assessed at 80%. Both the petitioners fall under 'Protected Category' of the Modal Online Transfer Policy notified by respondent-State vide notification dated 23.05.2025(Annexure P-7), which was adopted by respondent-HVPNL in its



entirety, as indicated by office order dated 03.07.2025(Annexure P-8). An online transfer drive was initiated by respondent No.4-Chief Engineer vide letter dated 16.07.2025(Annexure P-9), vide which a list of eligible employees along with their scores was also published. The schedule for the transfer process was uploaded and subsequently, it was found that for petitioner No.1, 392 office options were made available to able-bodied employee while those with benchmark disability were only provided with 15 as reflected by Annexure P-10 and Annexure P-11. With respect to petitioner No.2, 127 office options were made available to able-bodied employee while those with benchmark disability were only provided with 6, as reflected by Annexure P-12 and Annexure P-13. Thereafter, petitioner No.2 made a detailed representation addressing the same on 31.07.2025 (Annexure P-14), however he was forced to withdraw his name for voluntary transfer option.

3. Learned counsel for the petitioners *inter alia* contends that petitioner No.1 is shown at Serial No.746 in the list of eligible candidates published by respondent No.4 vide letter dated 16.07.2025(Annexure P-9) and has secured 51.5863 marks while petitioner No.2 is mentioned at Serial No.117 therein and has secured highest marks i.e.80. Petitioner No.1 falls under the ‘Compulsory Category’ and petitioner No.2 falls under ‘Protected Category’ with respect to the policy dated 03.07.2025 (Annexure P-8). He further submits that the petitioners, being persons with benchmark disabilities, have been considerably lesser number of options of offices for transfer than their able-bodied counterparts. Moreover, the option of home district was not made available to the petitioners or any other disabled employees, in contravention of the applicable Policy. Further still, UHBVNL, sister concern of HVPNL, has adopted the same State policy but not made any such



discrimination. The arbitrary and discriminatory approach adopted is in violation of Sections 2(h), 3, 20 and 21 of the Rights of Persons with Disabilities Act, 2016 (Act of 2016). Learned counsel further contends that there is no condition of compulsory transfer of petitioner No.2 as he falls within the 'Protected Category,' as mentioned in the policy dated 03.07.2025(Annexure P-8). Respondents No.3 and 4 have failed to cite anything to indicate the non-availability of vacant positions for the post of Assistant Executive Engineers in the home district of those covered by 'Protected Category.' Additionally, there was no prior communication regarding reduced number of options for the employees with benchmark disabilities. Reliance in this regard is placed on ***Re: Recruitment of Visually Impaired in Judicial Services 2025 INSC 30*** to submit that the act and conduct of respondents No.3 and 4 is forbidden being discriminatory and arbitrary, tainted with *mala fide*.

4. *Per contra* learned counsel for respondent No.3-HVPNL admits that the petitioners are its employees and have benchmark locomotor disabilities. Moreover, he could not controvert the fact that the petitioners were not provided adequate number of options, including the option of their home district, in the transfer process.

5. Having heard learned counsel for the parties and after perusing the record with their able assistance, it transpires that the Act of 2016 ought to be studied along with the applicable transfer policy for just adjudication of the matter at hand. The same are reproduced below:

**Act of 2016****2. Definitions.—**

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(h) “**discrimination**” in relation to disability, means any distinction, exclusion, restriction on the basis of disability which is the purpose or effect of impairing or nullifying the recognition, enjoyment or exercise on an equal basis with others of all human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field and includes all forms of discrimination and denial of reasonable accommodation;

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(r) “**person with benchmark disability**” means a person with not less than forty per cent. of a specified disability where specified disability has not been defined in measurable terms and includes a person with disability where specified disability has been defined in measurable terms, as certified by the certifying authority;

3. Equality and non-discrimination.—

(1) The appropriate Government shall ensure that the persons with disabilities enjoy the right to equality, life with dignity and respect for his or her integrity equally with others.

(2) The appropriate Government shall take steps to utilise the capacity of persons with disabilities by providing appropriate environment.

(3) No person with disability shall be discriminated on the ground of disability, unless it is shown that the impugned act or omission is a proportionate means of achieving a legitimate aim.

(4) No person shall be deprived of his or her personal liberty only on the ground of disability.

(5) The appropriate Government shall take necessary steps to ensure reasonable accommodation for persons with disabilities.

20. Non-discrimination in employment.—

(1) No Government establishment shall discriminate against any person with disability in any matter relating to employment:

Provided that the appropriate Government may, having regard to the type of work carried on in any establishment, by notification and subject to such conditions,



if any, exempt any establishment from the provisions of this section.

(2) Every Government establishment shall provide reasonable accommodation and appropriate barrier free and conducive environment to employees with disability.

(3) No promotion shall be denied to a person merely on the ground of disability.

(4) No Government establishment shall dispense with or reduce in rank, an employee who acquires a disability during his or her service:

Provided that, if an employee after acquiring disability is not suitable for the post he was holding, shall be shifted to some other post with the same pay scale and service benefits:

Provided further that if it is not possible to adjust the employee against any post, he may be kept on a supernumerary post until a suitable post is available or he attains the age of superannuation, whichever is earlier.

(5) The appropriate Government may frame policies for posting and transfer of employees with disabilities.

21. Equal opportunity policy.—

(1) Every establishment shall notify equal opportunity policy detailing measures proposed to be taken by it in pursuance of the provisions of this Chapter in the manner as may be prescribed by the Central Government.

(2) Every establishment shall register a copy of the said policy with the Chief Commissioner or the State Commissioner, as the case may be.

Transfer Policy dated 03.07.2025

3.0 Definitions:

In this policy, unless there be anything repugnant in the subject or context;

(ix) ‘Protected Employee’ means and includes:

(a) the employee due for retirement on attaining the age of superannuation within 12 months from cut-off date for transfer order generation, as published at the time of transfer drive creation of the cadre; or

(b) the employee undergoing treatment for cancer or undergoing dialysis or having undergone bypass heart surgery (during last 2 years) or having undergone organ transplant; or

*(c) the **employee having more than 70% disability** (as defined under RPWD Act 2016); or*



(d) the employee who is a widow having youngest child upto 10 years of age; (emphasis added)

6. *Ex facie*, the petitioners have been provided with lesser number of office options for transfer compared to their able-bodied counterparts, which is not backed by any provision in the applicable transfer policy dated 03.07.2025(Annexure P-8). A perusal of Annexures P-5 to P-7 would indicate that the standing policy has remained that, as far as possible, persons with disabilities ought to be shown due consideration with respect to the matter of their transfers to mitigate the inconvenience suffered by them. However, respondents No.3 and 4 have even denied equal treatment to the petitioners, let alone special considerations. This insensitive and apathetic, as well as manifestly illegal, approach taken by the respondent-HVPNL is contrary to not only the law, in terms of Act of 2016 and policy dated 03.07.2025 (Annexure P-8), but also the principles of equity.

7. Further, the Model Transfer Policy (Annexure P-7) and the HVPNL online transfer policy (Annexure P-8) does not provide for compulsory transfer of petitioner No.2. Moreover, nothing on the record indicates a reason to explain as to why transfer options for persons with disabilities were lesser than those for able bodied employees. Further still, the said action taken by respondents No.3 and 4 also remains unsubstantiated as the record does not suggest that the option to be transferred to his home district was taken away from petitioner No.2 due of unavailability of vacant posts for Assistant Executive Engineers. It may be noted that an identical provision is available in the model policy (Annexure P-7) and HVPNL policy (Annexure P-8) regarding transfer to home district. For brevity, Clause 6.0 (ix) of the HVPNL policy reads as follows:



6.0 Other Provisions

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ix. Instructions issued by the state government with regard to transfer/posting Government employees in Home District, from time to time, shall be read as part of this policy.

8. The duty to ensure well being of persons with disabilities finds mention in the Twelfth Schedule of the Constitution of India, which was added by the 74th Amendment Act, 1992, with respect to Article 243W.

“Twelfth Schedule

9. Safeguarding the interests of weaker sections of society, including the handicapped and mentally retarded.”

The Rights of Persons with Disabilities Act, 2016, promotes the cause of creating a barrier free environment for persons with disabilities. The relevant sections are reproduced below:

“Section 2(w) “public building” means a Government or private building, used or accessed by the public at large, including a building used for educational or vocational purposes, workplace, commercial activities, public utilities, religious, cultural, leisure or recreational activities, medical or health services, law enforcement agencies, reformatories or judicial foras, railway stations or plat forms, roadways bus stands or terminus, airports or waterways;

Section 40. Accessibility.—

The Central Government shall, in consultation with the Chief Commissioner, formulate rules for persons with disabilities laying down the standards of accessibility for the physical environment, transportation, information and communications, including appropriate technologies and systems, and other facilities and services provided to the public in urban and rural areas.

Section 44. Mandatory observance of accessibility norms.—

(1) No establishment shall be granted permission to build any structure if the building plan does not adhere to the rules formulated by the Central Government under section 40.

(2) No establishment shall be issued a certificate of completion or allowed to take occupation of a building unless it has adhered to the rules formulated by the Central Government.”



9. The right to life enshrined in Article 21 of the Constitution of India, is not limited to mere animal-like existence but includes right to live a meaningful life, with dignity in the truest sense of the term. In ***Rajive Ratauri vs. Union of India and others (2018) 1 SCC 413***, the Hon'ble Supreme Court extended this rationale to hold the State responsible for providing adequate facilities to make government as well as private establishments accessible. *In arguendo*, the reduced number of options due to lack of appropriate facilities in public buildings cannot be used as a justification for the same as the onus is on the State itself to create a level playing field and provide all necessary facilities to realise the fundamental rights guaranteed to its citizens by the Constitution, which also includes the right to move freely across the territory of India. A three Judge bench of the Hon'ble Supreme Court in ***State of Himachal Pradesh and another vs. Umed Ram Sharma and others (1986) 2 SCC 68*** has categorically held that the right to accessibility is also a dimension of Article 21 of the Constitution of India. Therefore, this Court is of the considered view that the petitioners herein has as much of a right to be given an equal number of transfer options as their able-bodied counterparts, along with special considerations for transfer to their home district.

10. In that context, this Court finds it appropriate to intervene in the present case as the approach taken by the respondents No.3 and 4 is in contravention of the applicable Rules and appears to be ridden with *mala fide*. Accordingly, the present petition is allowed with a direction to respondents No.1 and 3 to amend their respective transfer policies in consideration of the following:

- Ensure that the employees with disabilities are given the same number of options as their able-bodied counterparts.



- Necessary changes be made to make the office locations accessible to employees with disabilities.
- Opportunity to be transferred to their home district be presented to the employees with disabilities.
- Efforts be made to transfer the employee with disabilities to the location of their choice, wherever possible.
- Ensure that the office location where an employee with disabilities is posted has requisite assistance readily available.
- Distance between residence and workplace be considered before dealing with transfer matters pertaining to employees with disabilities.

11. The needful be done by the concerned respondents within 02 months of receipt of a certified copy of this order. A compliance report be filed in the Registry.

12. Pending miscellaneous application(s), if any, shall also stand satisfied.

(HARPREET SINGH BRAR)
JUDGE

18.08.2025

Neha

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No