



2025:DHC:9384-DB



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

*Reserved on: 06.10.2025
Pronounced on: 28.10.2025*

+ **W.P.(C) 2604/2025 & CM APPL. 12392/2025, CM APPL. 12393/2025**

NORTHERN RAILWAYS AND OTHERSPetitioners
Through: Mrs.Anubha Bhardwaj, CGSC
with Ms.Anchal Kashyap and
Ms.Ananya Shamschery, Advs.
along with Mr.Balbant Kumar,
CLA and Mr.Manoj Kumar,
Senior Clerk

versus

AMZADRespondent
Through: Mr.S.K. Rungta, Sr. Adv. with
Mr.Prashant Singh and Mr. P.
Rungta, Advs.

CORAM:
HON'BLE MR. JUSTICE NAVIN CHAWLA
HON'BLE MS. JUSTICE MADHU JAIN

J U D G M E N T

NAVIN CHAWLA, J.

1. This petition has been filed by the petitioners, challenging the Order dated 11.10.2023 passed by the learned Central Administrative Tribunal, Principal Bench, New Delhi (hereinafter referred to as, 'Tribunal') in O.A. No. 1344/2023, titled *Amzad (Group-C) v. Northern Railway Through General Manager & Ors.*, allowing the



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O.A. filed by the respondent herein and passing the following direction:

“15. As a sequel to the same, the respondents are directed to conduct the entire process de-novo strictly in accordance with the provisions of the Act, Rules and instructions extensively quoted above. To clarify, the reservation will be for persons with disabilities without any further reservation into a particular category or class. It is only after the selection of the eligible and qualified person, in accordance with merit, shall he be assigned a place in the appropriate class/ category be it unreserved or SC or ST. This would satisfy the requirements of the Act in letter and spirit. The O.A. stands allowed against the background of these directions.”

2. With the consent of the learned counsels for the parties, the petition was taken up for final hearing at this stage itself.

FACTS OF THE CASE:

3. To give a brief background of the facts in which the present petition arises, the petitioners issued a notification dated 06.04.2023 notifying 06 posts [two (02) UR, two (02) SC and two (02) ST vacancies including one (01) PwD vacancy] for the post of Senior Clerk/Commercial.

4. As this was a promotional post on the basis of seniority, the list of candidates among the various categories, that is, UR, OBC, SC, ST was prepared as per their seniority. The same included list of Persons with Benchmark Disability (PwBD) candidates amongst these categories. As the reservation for the PwBD candidates was



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horizontal, and there was already one candidate available for the same within the vertical reservation, the petitioners, therefore, did not consider the respondent, who is a PwBD under the Unreserved Category (UR) category but lower in seniority under the UR category, as falling within the zone of consideration for promotion, and his name was not included in the communication dated 17.04.2023 issued by the petitioners fixing the date of written test which was to be conducted on the basis of the notification dated 06.04.2023. Aggrieved thereby, the respondent filed the above O.A..

5. The learned Tribunal, in its Impugned Order, has held that PwBD is a separate class and, therefore, selection is to be made of an eligible person belonging to PwBD against the quota reserved for them. The learned Tribunal has, therefore, held that the action of the petitioners of first reserving the positions for SC, ST and UR candidates and thereafter assigning one of the places to PwBDs, was incorrect.

SUBMISSIONS OF THE LEARNED COUNSEL FOR THE PETITIONERS

6. The learned counsel for the petitioners, placing reliance on the Judgments of the Supreme Court in *Anil Kumar Gupta & Ors. v. State of U.P. & Ors.*, (1995) 5 SCC 173; and *Rajesh Kumar Daria v. Rajasthan Public Service Commission & Ors.*, (2007) 8 SCC 785, submits that the reservation for PwBD candidates, being horizontal in nature, it is only where even after the vertical reservation is given effect to and no suitable person under PwBD is appointed, that the



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zone of consideration will have to be enlarged till such a candidate is found. In the present case, however, Mr. Lakhender Kumar Paswan, who was entitled to promotion as an SC candidate, also met the PwBD standard, thereby filling-up the horizontal post reserved for PwBD. He was, therefore, considered against the said post reserved for SC as also PwBD and, therefore, the respondent was not offered the said post.

7. The learned counsel for the petitioners has placed reliance on the Office Memorandum dated 17.05.2022 issued by the Ministry of Personnel, Public Grievances and Pensions, Department of Personnel and Training, to submit that it is only where the PwBD candidates are not available in the normal zone of consideration, that the zone of consideration may be extended. She submits that, in the present case, as the candidate was available within the normal zone of consideration, appointment was offered to such candidate/Mr. Lakhender Kumar Paswan rather than the respondent.

SUBMISSIONS OF THE LEARNED SENIOR COUNSEL FOR THE RESPONDENT

8. On the other hand, the learned senior counsel appearing for the respondent submits that the reservation for PwBD candidate is to be applied post-selection. He submits that, in the present case, the respondent had been excluded prior to the said stage and, therefore, the learned Tribunal has rightly set aside the said process.

9. He places reliance on the Judgements of the Supreme Court in *Rajeev Kumar Gupta & Ors. v. Union of India*, (2016) 13 SCC 153; *Siddaraju v. State of Karnataka & Ors.*, (2020) 19 SCC 572; and



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Reserve Bank of India & Ors. v. A. K. Nair & Ors., 2023 INSC 613, to submit that PwBDs are entitled to reservation in promotion.

10. He places reliance on Rule 11 of the Rights of Persons with Disabilities Rules, 2017 (hereinafter referred to as the, 'Rules'), to contend that while issuing an advertisement to fill-up vacancies, the number of vacancies reserved for each class of PwBDs in accordance with Section 34 of the Rights of Persons with Disabilities Act, 2016 (hereinafter referred to as the, 'Act') needs to be indicated. A vacancy-based roster for purpose of calculation of vacancies for PwBDs in the cadre strength, is also to be maintained. He submits that the same was not done by the petitioners in the present case.

11. Placing reliance on the Judgment of the Supreme Court in ***Union of India & Anr. v. National Federation of the Blind & Ors.***, (2013) 10 SCC 772, he submits that the reservation for the PwBD candidate does not violate the 50% ceiling as laid down by the Supreme Court in ***Indra Sawhney v. Union of India & Ors.***, AIR 1993 SC 477. He also places reliance on the Judgment of the Supreme Court in ***Re: Recruitment of PWD Candidates in Rajasthan Judicial Services***, 2025 INSC 300, to submit that PwBD candidates are supposed to be identified as a separate class and benefits extended to them with respect to eligibility, should be at par with those extended to others similarly placed in vertical reserved class.

12. He submits that the petitioners have interpreted the Office Memorandum dated 17.05.2022 in an incorrect manner. He states that the actions of the petitioners are also contrary to the Office



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Memorandum dated 28.12.2023 issued by the Ministry of Personnel, Public Grievances and Pensions, Department of Personnel and Training, which lays down the procedure for implementation of scheme of reservation in the vacancies to be filled by promotion in favour of PwBDs, whereby it was also notified that all those who are eligible for promotion with effect from 30.06.2016 will have to be granted promotion against the reservation for PwBDs from the date of their eligibility.

13. He submits that therefore, as the respondent is senior to Mr. Lakhender Kumar Paswan, and is a PwBD candidate, he was entitled for appointment.

ANALYSIS AND FINDINGS

14. We have considered the submissions made by the learned counsels for the parties.

15. In terms of Rule 11(4) of the Rules, the reservation for PwDs shall be 'horizontal' and the vacancies for the PwBDs shall be maintained as a separate class. We reproduce the same as under:

"11. Computation of vacancies. –

xxx

(4) The reservation for persons with disabilities in accordance with the provisions of section 34 of the Act shall be horizontal and the vacancies for persons with benchmark disabilities shall be maintained as a separate class."

16. In the present case, six (06) vacancies had been notified by the petitioners for the post of Senior Clerk/Commercial, however, these



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six (06) vacancies consisted of two (02) UR, two (02) SC and two (02) ST vacancies, including one (1) PwD vacancy. The seniority list considered by the petitioners for promotion is as under:

**“NORTHERN RAILWAY
(DELHI DIVISION)
OFFICE OF DIVISIONAL RAILWAY MANAGER**

**PROVISIONAL SENIORITY LIST OF “Jr. Clerk” GRADE RS.5200-20200
GP 1900 as on 01.01.2023**

S.No.	IPAS NO	HRMS ID	NAME OF THE EMPLOYEE	FATHER/HUSBAND's NAME SERVE SH.	Department	Desig.	Station	SC/ST	DATE OF BIRTH	DATE OF INITIAL APPT	DOR	REMARKS
1	503NPS02825	DYKPTH	RAVI TIRKEY	PREM CHAND TIRKEY	Commercial	Clerk	DRMO	ST	22.10.1988	10.08.2015	31.10.2048	DQ
2	50329803153	ETBZCD	VISHAL	ANIL KUMAR	Commercial	Clerk	DRMO	SC	09.01.1997	26.04.2016	31.01.2057	DQ
3	50314009588	NQBFEY	PRAVESH KUMAR	VIRENDER SINGH	Commercial	Clerk	DRMO	UR	15.08.1991	28.08.2014	31.08.2051	PQ Mutual from MB Division 01.07.2021
4	50320083889	MXRPYD	RIZWAN KHAN	AZIZUL RAHIM KHAN	Commercial	Clerk	DRMO	UR	07.04.1984	19.11.18/27.02.18	30.04.2044	PQ
5	50714501829	MHADLP	MANJU TRIPATHI	SHANKAR TRIPATHI	Commercial	Clerk	DRMO	UR	15.01.1988	01.10.2007	31.01.2048	DQ
6	00329802462	AQUEUT	AMZAD MUNAWAR	MUNAWAR	Commercial	Clerk	DRMO	UR/PWD	10.03.1993	09.11.2016	30.03.2053	DQ
7	27229803225	XQABWG	LAKHENDER KUMAR PASWAN	RAMASHISH PASWAN	Commercial	Clerk	DRMO	SC/PWD	10.03.1989	02.12.2016	31.03.2049	DQ
8	6229807887		NIMISHA KHARE	Virender Kumar Khare	Commercial	Clerk	DRMO	UR	14.06.1972	01.09.2022	30.06.2052	DQ (CGA)
9	6229807914	EPXUMN	Shreya Rawat	Harinder Khare	Commercial	Clerk	DRMO	UR	17.10.1997	16.09.2022	31.10.2057	DQ (CGA)

17. The learned counsel for the petitioners has stated that Mr. Pravesh Kumar and Mr. Rizwan Khan were considered against the UR vacancies; Mr. Vishal and Mr. Lakhender Kumar Paswan against the

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SC category; and Mr. Ravi Tirkey against the ST category. As Mr. Lakhender Kumar Paswan is also PwBD, he was also considered against the one (01) post reserved for PwD candidates. On the other hand, the learned senior counsel for the respondent has stated that as the respondent was senior to Mr. Lakhender Kumar Paswan and was also a PwBD candidate, he should have been considered for promotion as a separate class.

18. The Supreme Court in **Anil Kumar Gupta** (supra), has explained how the horizontal reservation is to be applied. We quote from the Judgment as under:

“18. Now, coming to the correctness of the procedure prescribed by the revised notification for filling up the seats, it was wrong to direct the fifteen per cent special reservation seats to be filled up first and then take up the OC (merit) quota (followed by filling of OBC, SC and ST quotas). The proper and correct course is to first fill up the OC quota (50%) on the basis of merit; then fill up each of the social reservation quotas, i.e., SC, ST and BC; the third step would be to find out how many candidates belonging to special reservations have been selected on the above basis. If the quota fixed for horizontal reservations is already satisfied — in case it is an overall horizontal reservation — no further question arises. But if it is not so satisfied, the requisite number of special reservation candidates shall have to be taken and adjusted/accommodated against their respective social reservation categories by deleting the corresponding number of candidates therefrom. (If, however, it is a case of compartmentalised horizontal reservation, then the process of verification and adjustment/accommodation as stated above



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should be applied separately to each of the vertical reservations. In such a case, the reservation of fifteen per cent in favour of special categories, overall, may be satisfied or may not be satisfied.) Because the revised notification provided for a different method of filling the seats, it has contributed partly to the unfortunate situation where the entire special reservation quota has been allocated and adjusted almost exclusively against the OC quota.”

19. The above procedure of applying horizontal reservation was reiterated by the Supreme Court in ***Rajesh Kumar Daria*** (supra) as under:

*“7. A provision for women made under Article 15(3), in respect of employment, is a special reservation as contrasted from the social reservation under Article 16(4). The method of implementing special reservation, which is a horizontal reservation, cutting across vertical reservations, was explained by this Court in *Anil Kumar Gupta v. State of U.P.* [(1995) 5 SCC 173] thus: (SCC p. 185, para 18)*

“The proper and correct course is to first fill up the OC quota (50%) on the basis of merit; then fill up each of the social reservation quotas i.e. SC, ST and BC; the third step would be to find out how many candidates belonging to special reservations have been selected on the above basis. If the quota fixed for horizontal reservations is already satisfied—in case it is an overall horizontal reservation—no further question arises. But if it is not so satisfied, the requisite number of special reservation candidates shall have to be taken and adjusted/accommodated against their respective social reservation categories by deleting the corresponding



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number of candidates therefrom. (If, however, it is a case of compartmentalised horizontal reservation, then the process of verification and adjustment/accommodation as stated above should be applied separately to each of the vertical reservations. In such a case, the reservation of fifteen per cent in favour of special categories, overall, may be satisfied or may not be satisfied.)”

(emphasis supplied)

8. We may also refer to two related aspects before considering the facts of this case. The first is about the description of horizontal reservation. For example, if there are 200 vacancies and 15% is the vertical reservation for SC and 30% is the horizontal reservation for women, the proper description of the number of posts reserved for SC, should be: “For SC: 30 posts, of which 9 posts are for women.” We find that many a time this is wrongly described thus: “For SC: 21 posts for men and 9 posts for women, in all 30 posts.” Obviously, there is, and there can be, no reservation category of “male” or “men”.

9. The second relates to the difference between the nature of vertical reservation and horizontal reservation. Social reservations in favour of SC, ST and OBC under Article 16(4) are “vertical reservations”. Special reservations in favour of physically handicapped, women, etc., under Articles 16(1) or 15(3) are “horizontal reservations”. Where a vertical reservation is made in favour of a Backward Class under Article 16(4), the candidates belonging to such Backward Class, may compete for non-reserved posts and if they are appointed to the non-reserved posts on their own merit, their number will not be counted against the quota reserved for respective Backward Class. Therefore, if the number of SC candidates, who by their own merit, get selected to open competition



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vacancies, equals or even exceeds the percentage of posts reserved for SC candidates, it cannot be said that the reservation quota for SCs has been filled. The entire reservation quota will be intact and available in addition to those selected under open competition category. (Vide Indra Sawhney, R.K. Sabharwal v. State of Punjab, Union of India v. Virpal Singh Chauhan and Ritesh R. Sah v. Dr. Y.L. Yamul.) But the aforesaid principle applicable to vertical (social) reservations will not apply to horizontal (special) reservations. Where a special reservation for women is provided within the social reservation for Scheduled Castes, the proper procedure is first to fill up the quota for Scheduled Castes in order of merit and then find out the number of candidates among them who belong to the special reservation group of "Scheduled Caste women". If the number of women in such list is equal to or more than the number of special reservation quota, then there is no need for further selection towards the special reservation quota. Only if there is any shortfall, the requisite number of Scheduled Caste women shall have to be taken by deleting the corresponding number of candidates from the bottom of the list relating to Scheduled Castes. To this extent, horizontal (special) reservation differs from vertical (social) reservation. Thus women selected on merit within the vertical reservation quota will be counted against the horizontal reservation for women. Let us illustrate by an example:

If 19 posts are reserved for SCs (of which the quota for women is four), 19 SC candidates shall have to be first listed in accordance with merit, from out of the successful eligible candidates. If such list of 19 candidates contains four SC woman candidates, then there is no need to disturb the list by including any further SC woman



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candidate. On the other hand, if the list of 19 SC candidates contains only two woman candidates, then the next two SC woman candidates in accordance with merit, will have to be included in the list and corresponding number of candidates from the bottom of such list shall have to be deleted, so as to ensure that the final 19 selected SC candidates contain four woman SC candidates. (But if the list of 19 SC candidates contains more than four woman candidates, selected on own merit, all of them will continue in the list and there is no question of deleting the excess woman candidates on the ground that "SC women" have been selected in excess of the prescribed internal quota of four.)"

20. From the above, it would be apparent that for giving effect to horizontal reservations, the procedure is first to fill-up the quota for vertical reservation in order of merit and then find out the number of candidates amongst them who belong to the special reservation group of PwD candidates.

21. In the present case, as two (02) posts were for UR, two (02) for SC, and two (02) for ST candidates, the candidates in order of their merit were to be placed against these posts. It is only where none of them would have also satisfied the test of PwD that the zone of selection would have dropped further. As Mr. Lakhender Kumar Paswan is an SC candidate and also satisfies the PwD reservation criteria, he was considered for the PwD vacancy. We find no fault in the same.

22. In this regard, reference also needs to be made to the Office Memorandum dated 17.05.2022, which is admittedly applicable for



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purposes of giving effect to such reservation. We quote the relevant clauses of the same as under:

“14. HORIZONTALITY OF RESERVATION FOR PERSONS WITH BENCHMARK DISABILITIES”

14.1 Reservation for backward classes of citizens (SCs, STs and OBCs) is called ‘vertical’ reservation and the reservation for categories such as PwBDs and ex-servicemen is called ‘horizontal’ reservation. Horizontal reservation cuts across vertical reservation (in what is called interlocking reservation) and persons selected/promoted against the quota for PwBDs have to be placed in the appropriate category viz. SC/ST/OBC/Unreserved, depending upon the category to which they belong in the roster meant for reservation of SCs/STs/OBCs. To illustrate, if in a given year, there are two vacancies reserved for the PwBDs, and out of two PwBDs promoted, one belongs to Scheduled Caste and the other belongs to Unreserved, the SC candidate with benchmark disability shall be adjusted against the SC point in the reservation roster and the Unreserved candidate with benchmark disability against the unreserved point in the relevant roster. In case none of the vacancies falls on point reserved for the SCs, the candidate under benchmark disability belonging to SC shall be adjusted in future against the next available vacancy reserved for SC.

14.2 Since the PwBDs have to be placed in the appropriate category, viz. SC/ST/OBC/Unreserved in the roster meant for reservation of SCs/STs/OBCs, the application form (in respect of Departmental examination for promotion) for the post should require the candidates applying under the quota reserved



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for PwBDs to indicate whether they belong to SC/ST/OBC or unreserved.”

23. The Judgments of the Supreme Court in *National Federation of the Blind* (supra); *Re: Recruitment of PWD Candidates in Rajasthan Judicial Services* (supra); *Rajeev Kumar Gupta* (supra); *Siddaraju* (supra); and *A. K. Nair* (supra), do not deal with the manner in which the appointments are to be made and, therefore, are not relevant to the controversy in the present petition.

24. We also find that the acts of the petitioners are not in contravention of the Office Memorandum dated 28.12.2023.

25. In view of the above discussion, we find that the learned Tribunal has erred in interfering with the selection process. The Impugned Order cannot be sustained and is, accordingly, set aside.

26. The petition is allowed in the above terms. The pending applications are also disposed of.

27. There shall be no order as to costs.

NAVIN CHAWLA, J

MADHU JAIN, J

OCTOBER 28, 2025/sg/ik