



2025:DHC:9519-DB



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

Reserved on: 24.09.2025
Pronounced on: 31.10.2025

+ **W.P.(C) 7197/2021 & CM APPL. 22694/2021**

MUNNA LAL YADAV

.....Petitioner

**Through: Mr. Praful Shukla & Mr. Vipin
Shukla, Advs**

versus

**DEPARTMENT OF EMPOWERMENT OF PERSONS WITH
DISABILITIES & ORS.**

.....Respondents

**Through: Mr. Piyush Beriwal, Mr. Jatin
Puniyani, Ms. Jyotsna Vyas,
Ms. Ruchita Srivastava and Ms.
Amisha P. Dash, Advs. For R1
and R2
Mr. Rajiv Kapur, SC with Mr.
Akshit Kapur, AOR, Ms. Riya
Sood, Adv. Along with Mr.
Shobit Mehrotra, CM (L&D) &
Mr. Sachin Kumar Gupta,
AGM (Law).**

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 praying for the following reliefs:



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- “a. Hold and declare Rule 16 of the SBI Officers Services Rules, 1992 as illegal and unconstitutional to the extent that it treats PwDs at par with the general candidates;*
- b. Hold and declare Rule 16 of the SBI Officers Services Rules, illegal and unconstitutional for being arbitrary, vague and being discretionary in nature;*
- c. Hold and declare Rule 16 of the SBI Officers Services Rules, unconstitutional for being violative of Articles 14, 16, 19 and 21 of the Constitution;*
- d. Hold and declare ‘right to access to opportunity’ as an essential and integral right part of Article 21 of the Constitution of India;*
- e. Set-aside the termination of the Petitioner by quashing the Termination Letter dated 2nd May 2018 as issued by the Respondent No. 3 for being violative of Articles 14, 16, 19(1)(g) and 21 of the Constitution and reinstate the Petitioner with all benefits and arrears of payment; OR*
- f. Issue a writ of mandamus to the Respondent No. 3 and 4 thereby directing them to identify and reserve in terms of Sections 33 and 34 of the RPwD Act a minimum of 4% of total number of vacancies of the cadre strength for PwDs in the result of confirmation test and reinstated;*
- g. Modify the order dated 7th January 2021 as passed by the Respondent No. 5 to the extent that it recognises reservation a minimum of 4% of total number of vacancies of the cadre strength for PwDs in the result of the confirmation test;*
- h. Issue a writ of mandamus to the Respondent No. 3 and 4 thereby directing them to comply with the order dated 7th January 2021 as passed by Respondent No. 5 with modification as prayed at prayer clause (g) or with such modifications as this Hon’ble Court may deem fit;...”*



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FACTS OF THE CASE

2. Briefly stated, the facts in which this petition arises are that the State Bank of India/respondent no. 4 (SBI) issued an advertisement dated 30.08.2014 bearing no. CRPD/PO/AB/2014-15/04 (“the Advertisement”) for ‘Recruitment of Probationary Officers in the Associate Banks of the State Bank of India’. A similar advertisement was also issued by the SBI for ‘Recruitment of Probationary Officers in State Bank of India’ on 05.04.2014.

3. The petitioner, being a Person with Benchmark Disability (PwBD) having 100% blindness and being an OBC, filed the application for the post of Probationary Officers in the Associate Banks under ‘OBC (VH) category’ and appeared for the examination conducted by the SBI.

4. The petitioner was then sent an offer for appointment dated 16.05.2015 and, after completion of the formalities, was issued a letter of appointment dated 24.06.2015 to the post of Assistant Manager in Junior Management Grade Scale-I (JMGS-I) on a probationary basis at the State Bank of Bikaner and Jaipur (SBBJ) in Varanasi.

5. Thereafter, *vide* a notification dated 22.02.2017, which was to come into effect from 01.04.2017, SBBJ was merged with the SBI.

6. Accordingly, on 30.03.2017, the SBBJ issued an offer of employment/option letter, which had a deeming provision of having come on roll of the SBI.



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7. It is the case of the petitioner that in February 2017, the petitioner was informed that he would have to undergo a mandatory confirmation test for being confirmed in services. Accordingly, the petitioner, on 24.03.2017, appeared for the said Test for the first time and secured 57.25/200, that is, around 29% marks. As the petitioner failed to secure the minimum prescribed 45% marks for the OBC and Persons with Disability (PwD), the SBI extended the petitioner's probation by another 6 months. Thereafter, the petitioner appeared for the confirmation test for the second time, on 21.01.2018, and secured 68.01/200 marks, that is, around 34% marks. As the petitioner failed to pass the confirmation test, the SBI, on 02.05.2018, in accordance with Rule 16 of the SBI Officers Services Rules, 1992 ('SBI Rules'), issued a letter terminating the services of the petitioner.

8. The petitioner contested the said termination at various levels of SBI, whereafter, he filed a complaint with the Chief Commissioner of Persons with Disabilities (Divyangjan), New Delhi ('CCPwD').

9. *Vide* order dated 07.01.2021, the CCPwD recommended the following:

- "a. the termination shall be revoked;*
- b. Respondent shall give another 6 months and conduct re-examination of the complainant on the expiry of 6 months;*
- c. Respondent is also recommended to conduct special training of the complainant considering the difficulties he has to face because of nature and percentage of disability he is suffering from;*
- d. The respondent shall provide question paper in Braille language and shall also*



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*provide extra time to the complainant;
e. Respondent SBI, being a premier and large employer should set an example before other establishments with its policies which nurture and protect its Divyangjan so that they also rise in their career at par with their contemporaries.”*

10. The petitioner, *vide* email dated 10.03.2021, requested the SBI to implement the Order dated 07.01.2021 passed by the CCPwD. However, *vide* letter dated 20.03.2021, the SBI rejected the recommendations of the CCPwD.

11. Aggrieved by Rule 16 of the SBI Rules, the letter of termination dated 02.05.2018, and the non-compliance of the respondents with the Order dated 07.01.2021 passed by the CCPwD as well as a requirement for a clarification on the nature of the same, the petitioner has filed the present writ petition.

SUBMISSIONS OF THE LEARNED COUNSEL FOR THE PETITIONER

12. The learned counsel for the petitioner submits that in terms of the recruitment letter dated 24.06.2015, the petitioner was appointed as an Assistant Manager (Probationary) with the SSBJ, and his services were governed by the SBBJ Regulations, 1979. He submits that Regulation 16 thereof, only provided for a language test as a confirmation test and made no mention of a screening process as stipulated under Rule 16 of the SBI Rules for confirmation. He highlights that even the advertisement did not provide for such a



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confirmation test and therefore, the respondents had no right to mandate the same for confirmation in the services of SBI. He highlights that not only is Rule 16 of SBI Rules not in parity with the regulations of the other Associate Banks, which only provide for a language test, but it also lays down an arbitrary selection criterion conferring unfettered discretion upon the respondents to terminate the services of any employee who in their opinion is not fit for confirmation. This, he submits is violative of the petitioner's right to equality.

13. He submits that even if it is assumed that the SBI had the right to conduct the said confirmation test, this test should have been conducted in compliance with Part III of the Constitution of India as well as The Right of Persons with Disabilities Act, 2016 ('RPwD Act'). He states that the confirmation test and Rule 16 of the SBI Rules, upon examination, clearly reflect a practice of 'indirect discrimination', the fundamental principle of which is that unequals cannot be treated equally, and sometimes equal treatment may lead to unequal results. He states that any indirect discrimination that results in the exclusion of PwBDs, whether through rigid cut-offs or procedural barriers, must be interfered with in order to uphold substantive equality. Placing reliance on *Olga Tellis vs. Municipal Corporation, Bombay*, AIR 1986 SC 180, he submits that the acts of the respondent violate the petitioner's right to access of opportunity



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and livelihood, which is an integral part of the right to life as stipulated under Article 21 of the Constitution of India.

14. He states that even otherwise, in accordance with Sections 33 and 34 of the RPwD Act, a minimum of 4% of the seats in the confirmation test should have been identified and reserved for the PwBDs. He places reliance on the Judgements of the Supreme Court in *National Federation of the Blind vs. Union of India*, 2008 SCC Online Del 1362; *Union of India vs. National Federation of the Blind*, (2013) 10 SCC 772; *Rajeev Kumar Gupta & Ors. vs. Union of India & Ors.*, (2016) 13 SCC 153; *Siddaraju vs. State of Karnataka*, (2020) 19 SCC 572; and *State of Kerala and Ors. vs. Leesamma Joseph*, (2021) 3 SCR 576, to submit that once a post is identified for a PwBD, it must be reserved for PwBDs irrespective of the mode of recruitment adopted by the State for filling up of the said post. He highlights that the respondents, in a response dated 24.12.2019 under the Right to Information Act, have admitted that no seats were reserved for the PwBDs in the confirmation test.

15. He places reliance on the Notification no. 38-16/2020-DD-III dated 04.01.2021 issued by the Ministry of Social Justice and Empowerment, to submit that PwBDs require aids and assistive devices to overcome their difficulties, and that if a post is identified in the feeder grade, all the posts in the promotional grade should also stand identified accordingly. He highlights that the 5% relaxation in the qualifying criteria, was for Persons with Disabilities (PwDs) and



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not for PwBDs. He submits that this factor was not even taken into consideration by the CCPwD in its Order dated 07.01.2021 and that even otherwise, the respondents have failed to comply with this Order.

16. He further states that Section 20 of the RPwD Act mandates that every Government establishment shall provide reasonable accommodation and a conducive environment to employees with disability, and that the respondents failed to demonstrate that 'reasonable accommodation' and 'high support' was provided to the petitioner.

17. He submits that even the 'Notes on Clauses' present along with the Rights of Persons with Disabilities Bill, 2014 (RPwD Bill), clearly states that Clause 19 (Section 20 of the RPwD Act) seeks to prohibit every establishment from discriminating against any person with a disability in any matter relating to employment. He also places reliance on the recommendations of the Standing Committee on Social Justice and Empowerment in its Fifteenth Report dated May 2015, as well as the Office Memorandums dated 15.01.2018 and 17.05.2022, issued by the Department of Personnel and Training, Ministry of Personnel.

18. Placing reliance on the Judgements of the Supreme Court in *E.P. Royappa vs. State of Tamil Nadu & Anr.*, (1974) 4 SCC 3, and *UPPPCL vs. Ayodhya Prasad*, AIR 2009 SC 296, he submits that the right against disability-based discrimination is part and parcel of Articles 15 and 16 of the Constitution of India. He further submits that



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in fact, in accordance with the Judgement of the Supreme Court in ***Re: Recruitment of Visually Impaired in Judicial Services***, 2025 INSC 300, the RPwD Act has acquired the status of a quasi-constitutional law and hence the obligations under Sections 33 and 34 of the RPwD Act are similar to the obligations of the State under Articles 15 and 16 of the Constitution of India.

19. He places reliance on the Judgement of the Supreme Court in ***Somesh Thapliyal & Anr. vs. Vice Chancellor, H.N.B. Garhwal University & Anr.***, (2021) 10 SCC 116, to submit that it is open to employees to challenge terms and conditions of employment which are not in conformity with statutory requirements and prescribed procedure, and that they are not estopped from questioning the procedure at the stage where they find themselves aggrieved.

20. He submits that in light of the above, Rule 16 of the SBI Rules should be set aside as being unconstitutional, and the letter of termination dated 02.05.2018 should be quashed. He further submits that the Order of the CCPwD dated 07.01.2021 should be modified to the extent that it recognises reservation of a minimum of 4% of the total number of vacancies of the cadre strength for PwDs in the confirmation test. He submits that the respondents be directed to recognise the 4% reservation in the confirmation test for PwDs and comply with the Order of the CCPwD dated 07.01.2021.

SUBMISSIONS OF THE LEARNED COUNSEL FOR THE RESPONDENTS



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21. The learned counsel for the respondents submits that the petitioner, having accepted the terms and conditions of recruitment, cannot now challenge the rules and decisions made by the SBI. He cannot be permitted to approbate and reprobate.

22. He states that it is settled law that a Probationary Officer has no right to confirmation, and can have his services terminated at any time during or at the end of the period of probation on account of general unsuitability for the post held by him. He states that the decision of an employer on the suitability of a candidate should not be interfered with by the Courts under Article 226 of the Constitution of India.

23. He submits on merits that both, SBBJ and SBI, in fact, have the same confirmation policy for JMGS-I. He highlights that as per the SBI Bank Circular dated 02.06.2014, in the SBI, the qualifying criteria in the written test for confirmation of the Probationary Officers was laid down, and that a similar criteria was also laid down in the Circular dated 21.07.2016 issued by the SBBJ. He submits that therefore, the said Circular read with Regulation 16 of the SBBJ Rules also mandated the confirmation test.

24. He highlights that even the offer of appointment dated 24.06.2015 issued by the SBBJ, provides for the confirmation test. The petitioner was made to appear for the first confirmation test on 24.03.2017. He submits that, on 22.02.2017, the Department of Financial Services issued a Gazette Notification, which was to come into effect from 01.04.2017, whereby the SBBJ was merged with the



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SBI. The SBBJ then issued an option letter dated 30.03.2017 which contained a deeming provision, owed to which, the petitioner was absorbed in the SBI and became bound by the SBI Rules. Accordingly, the petitioner's probation was extended by a period of six months in terms of Rule 16(2) of the SBI Rules. He thereafter appeared for the confirmation test again but failed to meet the threshold prescribed for PwD candidates and hence was terminated from service. He highlights that in accordance with Rule 16(3) of the SBI Rules, the petitioner was duly paid his one-month emoluments which he accepted. He relies on the Judgement of this Court in *Veerpal Kaur v. State Bank of India and Anr.*, 2024:DHC:5363, wherein it was held that a Probationary Officer of the pre-merged State Bank of Hyderabad would be governed by the SBI Rules upon merger, and that the offer of appointment therein, as in the present case, clearly stipulated the requirement of clearing the confirmation test.

25. Placing reliance on the Judgement of the Supreme Court dated 19.02.2025 passed in SLP (C) no. 17979/2023, titled *Suman Mondal vs. The State Bank of India and Ors.*, he submits that the confirmation test is not a part of the selection process and that, therefore, relaxations provided in the selection process can by no stretch of imagination be sought to be claimed once the selection process is over. He submits that there can be no reservation in the confirmation test.



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26. He highlights that one Mr. Shri Yuvraj Kishore Zope, who was also suffering from 100% disability, has also been removed from services of the SBI on account of failing to score 45% marks, that is, the qualifying marks in the confirmation test. He places reliance on the Judgement of the Allahabad High Court in ***Neetu Devi Singh vs. High Court of Judicature at Allahabad through Registrar General and Anr.***, 2008 SCC OnLine All 110, to submit that once a competent authority sets a qualifying mark, those who fail to meet the same cannot claim further consideration.

27. The learned counsel for the respondents submits that the petitioner was granted not only ample opportunities to take the confirmation test, but was also given time concessions and scribe facilities during the said tests. He further submits that the petitioner, being a PwD, had also been given a relaxation in the cut off marks by 5%. He submits that therefore, there was no violation of the provisions of the RPwD Act, and the petitioner had been provided with due reasonable accommodation, despite which he failed to meet the requirements.

28. He submits that the challenge to the Order dated 07.01.2021 passed by the CCPwD on the ground that it should be considered as mandatory in nature, also holds no water. He submits that the powers of the CCPwD, as provided in Chapter XI of the RPwD Act, are restricted to making recommendations, which the concerned authority has the discretion of accepting or rejecting. He highlights that the



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respondents have acted in accordance with Section 76 of the RPwD Act and, *vide* a letter dated 20.03.2021, duly conveyed reasons for non-acceptance of the recommendations contained in the Order dated 07.01.2021. He places reliance on the Judgement of this Court in ***Mukesh Kumar vs. National Power Training Institute and Ors.***, 2025:DHC:2214-DB in support of his submissions.

29. He submits that therefore, the present petition is liable to be dismissed.

ANALYSIS AND FINDINGS

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

31. The first substantive issue to be determined by this Court is whether in terms of the recruitment regulation and/or the advertisement, the respondents could have conducted a confirmation test for the petitioner to the post of Probationary Officer.

32. The Regulation 16 of the SBBJ Regulations, 1979, basis which the petitioner was appointed as Assistant Manager in Junior Management Grade Scale-I (JMGS-I) on a probationary basis at the SBBJ, reads as under:

“16.1. An officer referred in regulation 15 shall be confirmed in the services of the Bank, if, in the opinion of the competent authority, the officer has satisfactorily completed the training in any institution to which the officer may have been deputed for training, and the in-service training in the Bank.



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Provided that an officer directly recruited to the junior management grade may be required also to pass a test in a language other than his mother tongue.

16.2. If, in the opinion of the competent authority, an officer has not satisfactorily completed either or both the training's referred to in sub-regulation (1) or if the officer has not passed the test referred to therein or an officer's service is not satisfactory, the officer's probation may be extended by a further period not exceeding one year."

33. The learned counsel for the petitioner has submitted that the above Regulation prescribes only a test in a language other than the mother tongue to be conducted, unlike the rule applicable to the SBI, that is, the SBI Rules which empowers the SBI to determine the merit and the suitability of a Probationary Officer through a screening process. We are unable to accept the above submission of the petitioner.

34. Regulation 16.1 of the SBBJ Regulations, 1979 provides that the officer shall be confirmed if in the opinion of the competent authority the officer has satisfactorily completed the training in any institution to which the officer may have been deputed for training and the in-service training in the bank. To determine the same, the respondents were therefore, entitled to have a confirmation test to test the satisfactory completion of the training of a candidate.

35. Even otherwise, the Appointment Letter dated 24.06.2015, appointing the petitioner to the post of JMGS-I, stated as under:



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“The period of probation will be two years, which may be extended at the Bank’s discretion. Confirmation in the JMGS-I will be subject to satisfactory completion of probation, and subject to receipt of satisfactory report from the Police Authorities regarding your character and antecedents and also favourable opinion from the referees and completion of 72 Mandatory E-Learning Lessons & subject to passing of confirmation test. You will be on training for a period of two years in various Branches throughout the country.”

36. It, therefore, clearly warns the candidates, including the petitioner, that his confirmation would be subject to the passing of the confirmation test.

37. It is also pertinent to highlight that a subsequent Circular dated 21.07.2016 issued by the SBBJ, titled ‘Screening test for Probationary Officers/Trainee Officers and other JMGS-I officers; placement of meritorious officers in MMGS-II’, also stated as under:

“4. Presently the Probation period for POs (Group C) is 2 years, and probation period for other JMGS-1 officers (i.e. Group A, B & Group D) is 1 year. In order to align the system with SBI, now onwards officers (Batch 2016-17) promotion under Group 'B' will be confirmed after a probation period of 2 years and after qualifying in screening test in line with POs.”

38. That apart, due to the merger of the SBBJ with the SBI in 2017, vide a notification dated 30.03.2017, options were called from the officers of the SBBJ if they agree to join the SBI. There was a deeming clause which stated that in case the officer of the SBBJ failed



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to exercise the option within the given time, he/she would automatically come into the services of SBI and be bound by its rules/regulations. The same reads as under:

“7. Further, it should be noted that employees who do not exercise any option within 15 days of date of the offer letter shall be deemed to have accepted to continue in the service of SBI from 1st April 2017, and such employees would be deemed to have accepted the existing superannuation facilities of (AB) (not SBI terminal benefits).”

39. The petitioner did not give any such option and therefore, by virtue of the quoted deeming provision, came on the roll of the SBI.

40. Admittedly, the rules of the SBI provides for a screening test before confirmation. The plea of the petitioner that the petitioner was not liable to undertake a confirmation test, therefore, does not appeal to us. Herein, we must note that the petitioner has, in fact, given two attempts on clearing the confirmation test and has unfortunately failed in both such attempts. The petitioner having participated in the confirmation tests, therefore, even otherwise is estopped from challenging the same.

41. This now bring us to the second and probably more important plea of the petitioner, which is that either there should be a reservation for PwBDs in the confirmation test and/or a different yardstick for the confirmation test should be applied for such persons.

42. To appreciate the above submission, it would first be pertinent to note the relevant provisions of the RPwD Act.



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43. The RPwD Act has been promulgated to give effect to the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD) which was ratified by India in 2007. The Convention laid down certain principles to be followed by the signatory States in order to empower PwDs.

44. Section 3 of the RPwD Act casts a duty on the Government to ensure that PwDs enjoy the right to equality, life with dignity and respect for his or her integrity, equally with others. It further seeks to ensure that no PwD 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. Section 3 of the RPwD Act is reproduced hereinunder:

“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 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.”



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45. Section 20 of the RPwD Act further mandates that the Government has to ensure that no Government establishment shall discriminate against any PwDs in any matter relating to employment, and shall provide reasonable accommodation and appropriate barrier free and conducive environment to employees with disability. It shall ensure that no promotion shall be denied to a person merely on the ground of disability and no Government establishment shall dispense with or reduce in rank an employee who acquires a disability during his or her service.

46. In terms of Section 21 of the RPwD Act, every establishment shall notify an equal opportunity policy detailing measures proposed to be taken by it in pursuance of the provisions of the RPwD Act. Sections 20 and 21 of the RPwD Act are reproduced herein under:

“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,



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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.”

47. The term “Discrimination” is defined in Section 2(h) of the RPwD Act as under:

“(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.”

48. The “Reasonable Accommodation” is defined in Section 2(y) of the RPwD Act, as under:

“(y) “reasonable accommodation” means necessary and appropriate modification and adjustments, without imposing a disproportionate or undue burden in a particular case, to ensure to persons with



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disabilities the enjoyment or exercise of rights equally with others.”

49. A reading of the above provisions together, therefore, establishes that every Government Establishment is to ensure that there *inter alia* should not be any restriction on an employee on the basis of the disability, and necessary and appropriate relaxations and adjustments, without imposing disproportionate or undue burden on the employers, should be made, in particular to ensure that the PwD enjoys or exercises rights at par with others.

50. Chapter VI of the RPwD Act contains special provisions with respect to PwBDs, which term is defined in Section 2(r) of the RPwD Act, as under:

“(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.”

51. Section 34 of the RPwD Act mandates reservation of not less than 4% of the total number of vacancies in the cadre strength in each group of posts in a Government establishment, to be filled with PwBDs. We quote the same as under:

“34. Reservation.—(1) Every appropriate Government shall appoint in every Government establishment, not less than four per cent. of the total number of vacancies in the cadre strength in each group of posts meant to be filled with persons with



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benchmark disabilities of which, one per cent. each shall be reserved for persons with benchmark disabilities under clauses (a), (b) and (c) and one per cent for persons with benchmark disabilities under clauses (d) and (e), namely:—

- (a) blindness and low vision;*
- (b) deaf and hard of hearing;*
- (c) locomotor disability including cerebral palsy, leprosy cured, dwarfism, acid attack victims and muscular dystrophy;*
- (d) autism, intellectual disability, specific learning disability and mental illness;*
- (e) multiple disabilities from amongst persons under clauses (a) to (d) including deaf-blindness in the posts identified for each disabilities:*

Provided that the reservation in promotion shall be in accordance with such instructions as are issued by the appropriate Government from time to time: Provided further that the appropriate Government, in consultation with the Chief Commissioner or the State Commissioner, as the case may be, may, having regard to the type of work carried out in any Government establishment, by notification and subject to such conditions, if any, as may be specified in such notifications exempt any Government establishment from the provisions of this section.

(2) Where in any recruitment year any vacancy cannot be filled up due to non-availability of a suitable person with benchmark disability or for any other sufficient reasons, such vacancy shall be carried forward in the succeeding recruitment year and if in the succeeding recruitment year also suitable person with benchmark disability is not available, it may first be filled by interchange among the five categories and only when there is no person with disability available for the post in that year, the employer shall fill up the vacancy by



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appointment of a person, other than a person with disability: Provided that if the nature of vacancies in an establishment is such that a given category of person cannot be employed, the vacancies may be interchanged among the five categories with the prior approval of the appropriate Government.

(3) The appropriate Government may, by notification, provide for such relaxation of upper age limit for employment of persons with benchmark disability, as it thinks fit.”

52. In the present case, the advertisement issued for recruitment to the SBBJ, prescribes for a reservation for *inter alia* visually handicapped persons. There is no challenge to the same. The plea of the petitioner is that such reservation must be carried forward also at the time of the confirmation. We do not find any mandate for the same in the RPwD Act. Once the petitioner has been appointed to the post reserved for the PwBDs, the petitioner would have to clear the confirmation test for being confirmed to the said post. The RPwD Act does not provide further reservation at that stage.

53. In ***Suman Mandal*** (supra), the Supreme Court, though considering the plea of further relaxation to an OBC candidate at the time of subjecting him for confirmation test, rejected the same observing as under:

“9. All the same, we are not convinced with the above submission of the learned senior counsel, Mr. A.K. Ganguli. Once the appellant has been selected and handed over an appointment letter, the selection process comes to an end in fact the selection process comes to an end once the select list is



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declared. Further, relaxation, if any, stipulated in the advertisement, can by no stretch of imagination be sought to be claimed once the selection process is over. Merely because her appointment or in other words her selection is subject to a confirmation test later on, would not logically mean that the selection process continues. In Tej Prakash Pathak v. High Court of Rajasthan (2025) 2 SCC 1, this Court has reiterated the settled position that the recruitment/selection process starts once the advertisement is issued and comes to end once the notified vacancies are filled up. This court had placed its reliance on two earlier decisions which had taken a similar view where it was held that the process of selection ends with the preparation of select list for appointment (See A.P. Public Service Commission v. B. Sarat Chandra, (1990) 2 SCC 669 & Rakhi Ray v. High Court of Delhi, (2010) 2 SCC 637)."

54. On the question of relaxation, it would first be relevant to note that in terms of the Circular dated 02.06.2014 with respect to the confirmation of Probationary JMSG-I Officers, the respondents have prescribed a relaxed criteria for PwD candidates, where such candidate is to secure 45% marks as against 50% marks for the general category candidates. We must also note that the respondents have given two opportunities to the petitioner to clear the confirmation test as per the relaxed standard. The petitioner was also given extra time and afforded the facility of having a scribe. The question before us therefore would be whether the same is sufficient.



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55. In *Recruitment of Visually Impaired in Judicial Services* (supra), the Supreme Court, on an extensive study of the provisions of the RPwD Act, has held as under:

**“A. EXISTING CONSTITUTIONAL
FRAMEWORK & NEED FOR ELEVATING
RIGHT AGAINST DISABILITY BASED
DISCRIMINATION TO A
FUNDAMENTAL RIGHT”**

33. *If there is one principle that forms part of the bedrock of the Constitution of India, it is ‘inclusivity’ on which also rests the doctrine of equality, which, apart from being one of the ideals set out in the preamble to our Constitution, has been specifically stated in Articles 14, 15 and 16 under the Fundamental Rights Chapter, and forms part of the basic structure of our Constitution. Furthermore, the other provisions of the Constitution, more importantly the golden triangle of Articles 14, 19 and 21 would take within their sweep every right that forms part of the Right to life which certainly and most importantly includes the right to live with dignity.*

34. *While Article 15 of the Constitution specifically bars the State from discriminating against any citizen of India on grounds only of religion, race, caste, sex, place of birth, or any of them, the specific ground of ‘disability’ is conspicuous by its absence. Though the anti-discrimination and non-discrimination clauses under Article 15 were discussed at length in the Constituent Assembly, ‘disability’ as a ground for non-discrimination was not included in Article 15. A constitutional amendment of Article 15 to address this glaring omission has been a long-standing demand of the disability rights movement. This*



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demand was also affirmed by the United Nations Committee on the Rights of Persons with Disabilities in its concluding observations in 2019 while reviewing India's compliance with the United Nations Convention on the Rights of Persons with Disabilities. Though Article 15 contains a strong anti-discrimination clause, the fact that it specifies other grounds while not mentioning 'disability' as a ground has remained a stumbling block for bringing in legislation, and the first legislation in this regard was the Persons with disabilities (Equal opportunities, Protection of Rights and Full Participation) Act, 1995. The preamble to the Act would make it clear that this Act was passed pursuant to the Proclamation on the Full Participation and Equality of the People with Disabilities in the Asian and Pacific Region, adopted at the Meeting to Launch the Asian and Pacific Decade of Disabled Persons 1993 - 2002 convened by the Economic and Social Commission for Asia and Pacific held at Beijing on 1st to 5th December, 1992.

35. Thereafter, the United Nations Convention on the Rights of Persons with Disabilities was adopted in 2006 to which India is a signatory. Pursuant thereto, the RPwD Act, 2016 came to be passed. While it is true that the RPwD Act, 2016 came to be passed as part of fulfilment of India's obligations under the treaty implementation regime and was enacted by the Parliament under Article 253 of the Constitution, the fact that 'disability' as a ground is not specifically stated under Article 15 of the Constitution, would not mean that the same is not part of the constitutional obligations of the State. The provisions under section 32 and section 34 of the RPwD Act, 2016 would also be a clear indication that similar to the State's obligations to provide for special protection including in the form of



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reservation for socially and educationally backward classes in educational institutions as well as in employment as stated in Articles 15 and 16 of the Constitution, the State has taken up the obligation of providing similar protection including reservation in respect of PwD. In view of the same, it can now be said that it is high time that an anti-discrimination clause be included in the Constitution with a specific provision that the State shall not discriminate on the grounds of mental or physical disability in line with the principles as stated in the RPwD Act, 2016. At this juncture, it is relevant to point out that as many as 70 countries out of 189 contain 'disability' as one of the grounds mentioned specifically in the constitutional provisions containing the anti-discrimination clause.

36. In this context, it is also relevant to mention that the RPwD Act, 2016 today has acquired the status of a 'super statute'. The term 'super statute' was first applied in 2001 by William N. Eskridge and John A. Ferejohn to characterise an ordinary statute that not only reveals intention but also establishes a new normative or institutional framework in the public culture and has a broad effect on the law. As a result, such statutes have a quasi-constitutional significance that exceed its former status as a statute. In the words of the authors, "these super-statutes penetrate the public normative and institutional and institutional culture". Applying this test, it can safely be said that the RPwD Act, 2016 has acquired the status equal to that of a 'super-statute' and hence, contains the ingredients of a quasi-constitutional law.

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46. Thus, the principle of indirect discrimination hereinbefore applied to counter gender-based discrimination, can also be applied to the facts of the present case, where



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disabled/visually impaired legal practitioners are sought to be equated with their able-bodied counterparts in the matter of application of certain conditions for participation for selection to the post of judicial officers. Applying such a test of indirect discrimination, the ease of practice as well as the securing of marks cannot be said to be an equal condition to both classes of citizens, viz., disabled and able-bodied lawyers, given that the atmosphere in which they operate cannot be said to be the same. This is also a perfect example of how unequals are sought to be treated equally, and that itself would be a negation of the principle of substantive equality. Therefore, it can easily be inferred that the rule relating to practice or in the alternative, to secure 70% in the first attempt in the examinations, is a case of indirect discrimination as the provisions are facially neutral but discriminatory in operation. In view of the same, Rule 7 of the Madhya Pradesh Judicial Service Rules, 1994, to the extent it prescribes the additional requirement of either a three-year practice period or securing an aggregate score of 70% in the first attempt, is liable to be struck down insofar as it applies to PwD candidates. Accordingly, the impugned Rule will be applicable to PwD candidates insofar as it prescribes the educational and other qualifications as eligibility criteria including the minimum aggregate score of 70% (with relaxation as may be determined like in the case of SC/ST candidates) but without the requirement of either that it should be in the first attempt or that they should have three years' practice. This issue stands answered in the said terms.

G. RELAXATION IN CRITERIA FOR SELECTION & SEPARATE CUT-OFF



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**MARKS FOR DISABLED CANDIDATES –
WHETHER PERMISSIBLE**

47. The learned counsel for the appellant [SLP(C)No.7683 of 2024], in his arguments prayed for relaxation of marks on the basis of vacancy and Office Memorandum No. 36035/02/2017-Estt (Res) [Reservation for Persons with Benchmark Disabilities] dated 15.01.2018.

48. The primary contention is that though the appellant has secured more marks in aggregate than the selected disabled candidates, he could not secure the minimum cut-off of 20 marks in the interview, due to which he fell out of the zone of consideration, and that inspite of there being vacancies available, the authority has not relaxed the interview minimum cut-off marks, despite there being a power to relax the same pursuant to the Office Memorandum referred to in the previous paragraph. The further case of the appellant is that even generally, prescription of any minimum cutoff for interview alone is not permissible in law.

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49. We may refer to the following judgment, which would make it clear that mere existence of vacancies cannot be a ground to claim relaxation in marks. At the same time, this Court in several cases has held that laying down a minimum cutoff for interview is legally permissible. Therefore, the only question that remains to be decided is, when there are suitable executive instructions/orders giving the authority the power to relax, whether such a power should be exercised in order to relax



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the minimum required marks in favour of the visually impaired candidates for selection.

marks in favour of the visually impaired candidates for selection.

49.1. Neetu Devi Singh v. High Court of Allahabad³⁹ wherein, it was held as under:

'In view thereof, as the reservation is provided for physically handicapped persons, though horizontal in nature, he/she must secure minimum qualifying marks as fixed by the authority concerned. The appellant-petitioner who has failed to achieve the said benchmark as she secured 36 percent marks while qualifying marks had been fixed as 55 percent, would be denied further consideration in view of the provisions of Article 335 of the Constitution of India. It is not the case of the appellant-petitioner that any other physically handicapped person securing lesser marks than her, is being permitted consideration any further.'

50. Examining whether relaxation of cut off marks can be granted to the appellant, reliance may be placed to Taniya Malik v. High Court of Delhi⁴⁰, wherein it was held as under:

'Merely by the fact that some more posts were advertised and they are lying vacant, it could not have been a ground to relax the minimum marks for interview after the interview has already been held. It would not have been appropriate to do so and the High Court has objected to relaxation of minimum passing marks in viva voce examination in its reply and as the power to relax is to be exercised by the High Court and since it has opposed such a prayer on reasonable ground and the institutional objective behind such



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prescription, we are not inclined to direct the High Court to relax the minimum marks.'

51. In a similar case of Rajinder Pal Singh v. State of Punjab & Ors⁴¹, the writ petitioner (PwD) secured 48.8%, whereas the minimum aggregate passing mark for clearing mains examination was 50%, prayed for relaxation of 5% marks for PwD on the ground that there are 4 vacancies. The Punjab & Haryana High Court dismissed the prayer of the petitioner holding as under:

“Merely because the posts advertised under Category 9 have gone abegging would by itself not clothe the writ court to issue a direction contrary to the Rules of service to fill up such posts by relaxing standards. But looking to the fact that persons with disabilities have not made it on general standards, the appropriate Government i.e. the Government of Punjab may consider the issue raised in this petition in the light of the 1995 Act and take a final decision with respect to grant or non-grant of relaxed standards to persons with disabilities consistent with its duty both of affirmative action and empowerment and to maintain the efficiency required for holding judicial office and to do so within a reasonable period and preferably before the next recruitment is made to the P.C.S. (Judicial Branch).”

52. However, it is now well-established that PwD are supposed to be identified as a separate class in itself and therefore, some kind of benefits has to be extended to them with respect to eligibility which was extended similarly to other vertical reserved class. The Delhi High Court in Anamol Bhandari v. Delhi Technological University, provided for relaxation or concession marks to PwD at the same par as that of SC/ST candidates. The relevant paragraph is extracted as under:



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“21. Reference to the aforesaid judgment is made by us to highlight the decision taken by the Government, and accepted by the Supreme Court that reservation for disabled is called horizontal reservation which cuts across all vertical categories such as SC, ST, OBC & General. Therefore, what was recognized was that since PwDs belonging to SC/ST categories, i.e., vertical categories enjoyed the relaxation which is provided to SC/ST categories, there is no reason not to give the same benefit/concession to those disabled who are in General Category or Other Backward Class Category as that process only would bring parity among all persons’ disparity irrespective of their vertical categories. This itself provides for justification to accord same concession, viz., 10% concession to PwDs as well, in all categories which is extended to those PwDs who fall in the category of SC/ST.

22. All the aforesaid clinchingly demonstrates that the people suffering from disabilities are equally socially backward, if not more, as those belonging to SC/ST categories and therefore, as per the Constitutional mandates, they are entitled to at least the same benefit of relaxation as given to SC/ST candidates.

52.1. This Court in Aryan Raj v. State (UT) of Chandigarh affirmed the above principle and held as follows:

“3. We are of the view that the High Court is correct on the bifurcation aspect. Further, insofar as the aptitude test having to be passed is concerned, the High Court is correct in saying that no exemption ought to



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be granted, but we follow the principle laid down in the Delhi High Court's judgment in Anamol Bhandari v. Delhi Technological University [Anamol Bhandari v. Delhi Technological University, 2012 SCC OnLine Del 4788 : (2012) 131 DRJ 583] in which the High Court has correctly held that people suffering from disabilities are also socially backward, and are therefore, at the very least, entitled to the same benefits as given to the Scheduled Caste/Scheduled Tribe candidates.

..

5. In our view, considering that Scheduled Caste/Scheduled Tribe candidates require 35% to pass in the aptitude test, the same shall apply so far as the disabled are concerned in future. Shri Gonsalves's client is, therefore, at liberty to apply afresh for the current year, in which the requisite certificate that is spoken about in the advertisement dated 31-5-2019, is furnished stating that he is fit to pursue the course in Painting or Applied Art. Further, it is clear that aptitude test pass mark, so far as disabled are concerned, is now 35%."

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62. Thus, it is discernible from the above that in light of the decision in Indra Sawhney v. Union of India, relaxation of minimum marks is permissible in law. Further, the aforesaid Office Memorandum clearly permits the authority to relax the minimum marks. Therefore, we are of the opinion that relaxation in minimum cutoff marks is permissible, especially when there is a specific



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power of relaxation available to the appointing authority. Accordingly, these issues are answered by us.

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63.3. Taking note of all these aspects, we are of the opinion that maintaining and operating a separate cut-off list is mandatory for each category, which axiomatically includes PwD category as well. Non-declaration of cut-off marks affects transparency and creates ambiguity, and candidates being not informed about the basis of their results. Such candidates are left uninformed about the last mark scored by the qualifying candidate belonging to the particular category, to be able to get through to the next stage of selection process. In effect, it compels PwD candidates to compete with other category candidates on unequal terms. Further, when the Rules referred to above, considered the PwD as a separate category and provided them with reservations, it is indispensable on the part of the authorities concerned to declare separate cut-off marks for PwD category at each stage to ensure that those similarly placed candidates are adequately represented in the service fulfilling the very purpose of reservation. The non-disclosure of cut-off marks would lead to a situation, where such candidates may not be adequately represented in the judicial service, which is against the provisions of the RPwD Act, 2016. Therefore, we direct the authorities concerned to declare separate cut-off marks and publish separate merit list for the PwD category at every stage of the examination and proceed with the selection process accordingly.

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67.1. Thus, after considering the pleadings, submissions of the learned counsel appearing for all the parties, as well as the legal



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positions and case laws, we conclude as follows:

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(iv) Relaxation can be done in assessing suitability of candidates when enough PwD are not available after selection in their respective category, to the extent as stated in the relevant paragraphs above, and in the light of existing Rules and Official Circulars and executive orders in this regard, as in the present case.

(v) A separate cut-off is to be maintained and selection made accordingly for visually-impaired candidates as has been indicated in the relevant paragraphs in line with the judgment in Indra Sawhney.

(vi) For the purpose of rights and entitlements of persons with disabilities, particularly in employment, and more specifically in respect of the issues covered in this judgment, there can be no distinction between Persons with Disabilities (PwD) and Persons with Benchmark Disabilities (PwBD)."

56. From the above, it would be evident that the RPwD Act requires a relaxed standard to be adopted as far as the PwDs or PwBDs are concerned. The Supreme Court has further held that in case enough suitable candidates are not available after selection, further relaxation can be done in assessing the suitability of the candidate. This is also the mandate of the Office Memorandums dated 15.01.2018 and 17.05.2022 issued by the DoPT, which prescribe as under:

Office Memorandum dated 15.01.2018:



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“11. RELAXATION OF STANDARD OF SUITABILITY:

11.1 If sufficient number of candidates with benchmark disabilities candidates are not available on the basis of the general standard to fill all the vacancies reserved for them, candidates belonging to this category may be selected on relaxed standard to fill up the remaining vacancies reserved for them provided they are not found unfit for such post or posts. However, this provision shall not be used to allow any relaxation in the eligibility criteria laid down for the issuance of certificate of disability.

11.2 Same relaxed standard should be applied for all the candidates with Benchmark Disabilities whether they belong to Unreserved/SC/ST/OBC. No further relaxation standards will be considered or admissible in favour of any candidate from an category whatsoever.

Office Memorandum Dated 17.05.2022:

“ 8. RELAXATION OF STANDARD OF SUITABILITY:

8.1. If sufficient number of PwBD candidates with benchmark disabilities are not available on the basis of the prescribed standard to fill the vacancies (in case of promotion through Limited Departmental Competitive Examination/Departmental Examination, etc.) reserved for them, candidates belonging to this category may be selected on relaxed standard to fill up the remaining vacancies reserved for them, provided they are not found unfit for such post or posts. However, this provision shall not be used to allow any relaxation in eligibility criteria laid down for the issuance of certificate of benchmark disability.



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8.2 The same relaxed standard should be applied for all the PwBD candidates with benchmark disabilities, irrespective of whether they belong to the Unreserved/ SC/ ST/ OBC category. No further relaxation of standards will be considered or admissible in favour of any candidate for any category whatsoever.”

57. In the present case, it is admitted that not only the petitioner, but one more candidate, had failed to clear the screening test. We have not been informed that in such situation if the respondents had adequate number of PwBD candidates for filling the posts that were originally reserved for them at the time of selection. The respondents cannot defeat the object of the RPwD Act or takeaway what it gives to the PwD due to the mandate of the RPwD Act. In case the respondents find that in spite of a relaxed standard, there are not enough PwBD candidates who are making the marks for confirmation to the post reserved for them, if it can relax the standard for such candidates without prejudicially affecting its working, it is the mandate of the RPwD Act and the Office Memorandums reproduced hereinabove for it to exercise such power of relaxation. However, a decision on the same has to be taken by the respondents keeping in view the most basic requirement for the job. In absence of adequate material before us, we would not like to venture on this exercise.

58. Submissions have also been made by the learned counsels on the binding effect or otherwise on the recommendations issued by the CCPwD.



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59. In the present case, as would be noted from the facts narrated hereinabove, the petitioner had first approached the CCPwD and by an Order dated 07.01.2021, the CCPwD had issued certain directions/recommendations which have been reproduced hereinabove. The petitioner complains that same were not complied with by the respondents.

60. On the other hand, the learned counsel for the respondents submits that the respondents, exercising rights under Section 76 of the RPwD Act, had filed an affidavit before the CCPwD on the recommendation which could not be complied with.

61. We shall first reproduce Sections 75 and 76 of the RPwD Act as under:

*“75. Functions of Chief Commissioner.—(1)
The Chief Commissioner shall—*

(a) identify, suo motu or otherwise, the provisions of any law or policy, programme and procedures, which are inconsistent with this Act and recommend necessary corrective steps;

(b) inquire, suo motu or otherwise, deprivation of rights of persons with disabilities and safeguards available to them in respect of matters for which the Central Government is the appropriate Government and take up the matter with appropriate authorities for corrective action;

(c) review the safeguards provided by or under this Act or any other law for the time being in force for the protection of rights of persons with disabilities and



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recommend measures for their effective implementation;

(d) review the factors that inhibit the enjoyment of rights of persons with disabilities and recommend appropriate remedial measures;

(e) study treaties and other international instruments on the rights of persons with disabilities and make recommendations for their effective implementation;

(f) undertake and promote research in the field of the rights of persons with disabilities;

(g) promote awareness of the rights of persons with disabilities and the safeguards available for their protection;

(h) monitor implementation of the provisions of this Act and schemes, programmes meant for persons with disabilities;

(i) monitor utilisation of funds disbursed by the Central Government for the benefit of persons with disabilities; and

(j) perform such other functions as the Central Government may assign.

(2) The Chief Commissioner shall consult the Commissioners on any matter while discharging its functions under this Act.

76. Action of appropriate authorities on recommendation of Chief Commissioner.— Whenever the Chief Commissioner makes a recommendation to an authority in pursuance of clause (b) 1 [of subsection (1)] of section 75, that authority shall take necessary action on it, and inform the Chief Commissioner of the action taken within three months from the date of receipt of the recommendation:

Provided that where an authority does not accept a recommendation, it shall convey reasons for non acceptance to the Chief



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*Commissioner within a period of three months,
and shall also inform the aggrieved person.”*

62. A reading of the above provisions would show that the CCPwD is *inter alia* empowered to recommend the corrective action to be taken by the Government in case it finds the deprivation of rights of PwDs. It can also recommend appropriate remedial measures where it finds factors that inhibit the enjoyment of rights of PwDs. Section 76 of the RPwD Act mandates that whenever the CCPwD makes a recommendation to an Authority in pursuance of Section 75(1)(b) of the RPwD Act, such authority shall take necessary action on it and inform the CCPwD of the action taken, within three months from the date of receipt of the recommendation. The Proviso to the said provision, however, states that where an authority does not accept a recommendation, it shall convey reasons for non-acceptance to the CCPwD and shall also inform the aggrieved person of the same, within a period of three months.

63. In ***Mukesh Kumar*** (supra), a Coordinate Bench of this Court examined the limits of the power of the CCPwD, by observing as under:

“36. For what we have discussed and analyzed above, we are of the considered opinion that the recommendations made by the Chief Commissioner in relation to the exercise undertaken by it under Section 75(1)(a)(b) of the 2016 Act will bind the authority concerned which shall take necessary remedial measures and corrective steps, however, such recommendation may not be acted upon or



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will not bind the authority concerned only and only in a situation such an authority has valid reasons for not accepting a recommendation which are required to be conveyed to the Chief Commissioner as also to the person aggrieved. There cannot be an exhaustive list of valid reasons for non-acceptance of recommendation by the authority made to it by the Chief Commissioner, however, for illustration we may observe that in a situation where an employee with disabilities is transferred in administrative exigencies taking into account the need and operational necessity of the organization and the skills and capability of the employee concerned, such a situation may give rise to a valid reason for the origination for not accepting the recommendation made to it by the Chief Commissioner, though, in such a situation reasons are to be conveyed to the Chief Commissioner as also to the person aggrieved.

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49. We have already elaborated that the CCPD is vested not only to make final order of recommendation but also to make interim order/ recommendation having regard to the facts and circumstances of a particular case presented before it. In a situation where CCPD finds that it is necessary to issue an interim recommendation, it is empowered to do so and, accordingly, the order dated 02.08.2024 passed by the CCPD is to be viewed in the said light.

50. We, accordingly, hold that the order dated 02.08.2024, is to be treated as an interim recommendation under Section 75/76 of the 2016 Act which needs to be considered by the respondent no.1 and, in case, it is unable to accept said recommendation, it needs to convey the valid reasons therefore to the CCPD.”



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64. From the above, it would be evident that the recommendations of the CCPwD have to be generally followed, however, the concerned authority may, for valid reasons, refuse to follow the same, and in such circumstance, convey the reason of non-acceptance to the CCPwD and also to the aggrieved person so that the aggrieved person may avail his/her remedy, as has been done by the petitioner in the present case.

65. For the above reasons, while we find no merits in the present petition, we call upon the respondents to consider if further relaxation can be given in the confirmation test for purposes of accommodating the petitioner and other PwD candidates or further and reasonable accommodation can be given to such candidates in the manner or mode of the confirmation test so as to ensure that the mandate of RPwD Act is not defeated and adequate representation of PwD persons is maintained in the services. Such decision must be taken by the respondents within a period of four weeks from today and informed to the petitioner. In case the respondents refuse to recommend such further relaxation in the standards or reasonable accommodation in the mode or manner of the examination, reasons for the same shall also be supplied to the petitioner. In case it is decided to further relax the standards and/or give further reasonable accommodation to the candidates in the manner or mode of the examination, the same benefit shall be extended to the petitioner by giving him another chance to participate in the screening test on basis



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of such relaxed standards and/or changed manner or mode of the examination.

66. The petition is disposed of in the above terms. Pending application is also disposed of.

67. There shall be no order as to costs.

NAVIN CHAWLA, J.

MADHU JAIN, J.

OCTOBER 31, 2025/Arya/ik