IN THE HIGH COURT OF JHARKHAND AT RANCHI

W.P (S) No. 381 of 2026

Juthika Pal, aged about 38 years, Wife of Goutam Kumar Kundu, Resident of Vill-Jaruadih, P.O. Jaruadih, P.S.-Masalia, District-Dumka, Jharkhand. **..... Petitioner**

V E R S U S

1. The State of Jharkhand.
2. The Deputy Commissioner, Dumka having office at Dumka, P.O. and P.S. Dumka, District-Dumka.
3. The Deputy Collector (Establishment), Dumka, P.O. and P.S. Dumka, District-Dumka.
4. The Superintendent of Police, Dumka, P.O. and P.S. Dumka, District-Dumka. **..... Respondents**

CORAM: HON'BLE MR. JUSTICE DEEPAK ROSHAN

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For the Petitioner(s) : Mr. Shubham Mishra, Adv
Mr. Kazi Asif Equbal, Adv
Mr. Gyandev Raj, Adv
For the Resp.-State : Mr. A.K.Yadav, Sr. S.C.-I

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C.A.V. ON: 28/10/2026 **PRONOUNCED ON:04/11/2026**

1. Heard learned counsel for the parties.

2. The instant writ application has been preferred by the petitioner for the following reliefs;

Following reliefs:-

> ***i.*** *For issuance of an appropriate writ, order or direction upon the respondent authorities to show cause as to under what authority and under what circumstances the by completely dehoring advertisement being Advertisement no 01 of 2025 the petitioner was not considered for employment against the advertised post of Chowkidar despite the fact they fulfil the criteria for being considered for employment under the Persons with Disabilities Category;*
> *AND*
> ***ii.*** *For issuance of further writ, order or direction upon the respondent authorities to immediately and forthwith appoint the petitioners as chowkidar in her respective Beat in compliance with the terms of Advertisement;*

3. The brief facts of the case as per the pleadings are that an Advertisement being Advertisement no 01 of 2025 was issued in the District of Dumka for appointment on 328 posts of Chowkidar. As per clause A sub-clause 2 of the said advertisement 4% seats were reserved for the applicants under

persons with disabilities category. The petitioner who belongs to Pwd category (Locomotive Disability) and having required qualification applied for the post of Chowkidar pursuant to aforesaid advertisement. The aforesaid reservation for Pwd category was provided as per clause 5(kh) (i) of memo no. 2249 dated 03.04.2018 and as per the advertisement the said reservation will be guided by the aforesaid notification. Accordingly, the admit card was issued to the petitioner and she was called for written examination on 05.10.2025.

4. The petitioner appeared in the written examination and after being successful vide general notice dated 01.11.2025 she was called for physical test which was to be conducted from 04.11.2025 to 06.11.2025 and the name of the petitioner appeared at serial no. 628. In the physical examination although the petitioner belongs to PWD category she was directed to appear in the physical running test and no additional time was allotted to the petitioner and therefore the petitioner competed her physical test along with all the candidates on the stipulated date.

5. In the running test, some of the disabled candidates were not asked to appear but the petitioner was directed to appear in the running test. After the completion of the physical running test the petitioner was asked to sign a paper wherein it was mentioned that she has not qualified in the running test only for 3 seconds.

6. Thereafter, provisional merit list of the selected candidates was published but the roll number of the petitioner did not find place in the said list. From the perusal of the provisional merit list it was clear that no cut off marks was published for the selected candidates under the Pwd category or no separate result was published for the said category.

7. Out of total 328 seats, 13 seats were reserved for pwd category candidates and out of these 13 seats only 2 candidates were selected and the remaining 11 seats are still vacant.

8. The petitioner approached the respondents by filing a representation for considering her claim for appointment as the 11 seats pursuant to the aforesaid advertisement were still vacant but the same representation has been kept pending by the respondent authorities till date. Being aggrieved by the said action of the respondents, the petitioner has approached this Court in the present writ petition.

9. Learned counsel for the petitioner has submitted that admittedly the petitioner belong to pwd category suffering from the Locomotive disability which is apparent from the disability certificate which is annexed as Annexure-2 to the writ petition and in spite of being a pwd candidate, the petitioner was asked to appear with the all regular candidates in the physical running test and no separate time was allotted to the petitioner for completion of the said test.

10. He has further submitted that in spite of competing with the regular candidates she has finished her running test in 10 Min and 3 Seconds which was only 3 seconds more than the qualifying time and as such by not selecting the petitioner only on this ground, the respondents have acted in an arbitrary manner as without providing additional time a pwd category candidate cannot be disqualified for only 3 seconds.

11. He has further draws attention of this court to section 2(y) of *The Rights of Persons With Disabilities Act, 2016* wherein the term Reasonable Accommodation has been defined and has submitted that as per the said definition 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 disabilities

the enjoyment or exercise of rights equally with others and in the present case no such reasonable accommodation has been provided to the petitioner.

12. Ld. Counsel has further relied upon Sec 20 (1) and (2) wherein it has been provided that no government establishment shall discriminate against any persons with disability in any matter relating to employment and further by relying upon Clause (2) wherein it has been provided that every government establishments shall provide reasonable accommodation and appropriate barrier free and conducive environment to the employees with the disability but in the present case the respondents have discriminated the petitioner and has not provided any reasonable accommodation which is against the statutory provisions laid down in *The Rights of Persons with Disabilities Act, 2016.*

13. To strengthen his argument, he relied upon paragraph 52 of the judgment passed by the Hon'ble Apex Court in the case of ***Vikash Kumar V. Union Public Service Commission*** reported in ***2021 5 SCC 370***.

14. On the other hand, the learned counsel for respondent by relying upon the counter affidavit has submitted that written test of 50 marks was to be conducted and the said merit list will be prepared on the basis of marks obtained in written test, physical test and work experience, but as per the merit list the petitioner secured less marks than that of cut off marks.

15. He further submitted that for the women 20 marks has been fixed for those who will complete their running within 8 minutes and 10 marks has been fixed for those who will complete their running within 10 minutes after that they will be rejected as the petitioner has taken more than 10 minutes, she has not been considered.

16. He has further submitted that neither any provision regarding the exemption to Pwd in Chowkidar cadre Rule, 2015 has been given; nor the resolution of personnel department vide memo no. 2249 dated 03.04.2018 provided any exemptions. It contains only clarification regarding exception to PWD candidate; accordingly, action has been taken strictly in per Resolution and the 2015 rules.

17. Having heard the Ld. Counsel for the parties and upon perusal of records, it transpires that the case of the petitioner was not considered on the ground that she has not completed her physical running test within the stipulated time of 10 minutes and no provision of relaxation of time was provided in the appointment rules and hence she was not selected under PWD category pursuant to the aforesaid advertisement.

18. As a matter of fact, 4% seats were reserved in the aforesaid advertisement for the person with disability and by qualifying the written test the petitioner was called for physical running test and admittedly she was asked to appear with all the regular candidates and by complying the said direction the petitioner competed her running test and failed to qualify the said physical test only by 3 seconds.

19. It is also an admitted position that no additional time or accommodation was provided by the respondents to the petitioner in spite of the fact that she belongs to Pwd category which is against the statutory provision of Sec 20 (1) and (2) of *The Rights of Persons With Disabilities Act, 2016* which emphasis that no government establishment shall discriminate against any persons with disability in any matter relating to employment and further clause 2 provides that every government establishments shall provide reasonable accommodation and appropriate barrier free and conducive environment to the employees with the disability.

20. From the definition of reasonable accommodation which is defined in section 2(y) of the aforesaid Act, it clearly transpires that reasonable accommodation means a necessary and appropriate modification and adjustments, without imposing a disproportionate or undue burden in a particular case, to ensure to persons with disabilities the enjoyment or exercise of rights equally with others.

21. In the present case, no such reasonable accommodation has been provided to the petitioner in spite of specific legal provision laid down in *The Rights of Persons with Disabilities Act, 2016*.

22. The contention of the respondents that since neither the appointment Rules; nor the notification of 2018 issued by the State of Jharkhand provides for such reasonable accommodation, the petitioner was not provided with any such accommodation; is not tenable in the eyes of law as no notification or rules can go beyond the specific statutory provision laid down in an Act enacted by the parliament.

23. The issue of reasonable accommodation has been delt by the Hon'ble Apex Court in the case of *Vikash Kumar V. Union Public Service Commission* reported in *2021 5 SCC 370* wherein paragraph 52 the Hon'ble Apex court has held which is quoted as under:-

> *" The principle of reasonable accommodation has found a more expansive manifestation in the 2016 RPwD Act. Section 3 of the 2016 RPwD Act goes beyond a formal guarantee of non-discrimination by casting affirmative duties and obligations on the government to protect the rights recognised in Section 3 by taking steps to utilise the capacity of persons with disabilities "by providing appropriate environment". Among the obligations which are cast on the government is the duty to take necessary steps to ensure reasonable accommodation for persons with disabilities. The concept of reasonable accommodation in Section 2 (y) incorporates making "necessary and appropriate modification and adjustment" so long as they not impose a disproportionate or undue burden in a particular case to ensure to persons with disability the enjoyment or exercise of rights equally with others. Equality, non-discrimination and dignity are the essence of the protective ambit of the 2016 RPwD Act."*

24. In view of the aforesaid finding, it is clear that the principle of the reasonable accommodation attracts a positive obligation upon the State to provide additional support to the person with disabilities to facilitate their full and effective participation in society but in the present case, no such accommodation has been provided to the petitioner in the physical running test; as such, the action of the respondent is not sustainable in the eyes of law and is against the principles laid down by the Hon'ble Apex Court.

25. In the factual background, it is apparent that the petitioner has duly qualified her written test and failed to qualify the running test only by 3 seconds as no reasonable accommodation was provided to the petitioner which was necessary as per the provisions contained in *The Rights of Persons with Disabilities Act, 2016*.

26. Having regards to the aforesaid facts and the law laid down by the Hon'ble Apex Court, it is held that the petitioner is entitled for appointment on the post of Chowkidar pursuant to the Advertisement no.01 of 2025 in the district of Dumka under PWD category as the seats under the said category is still vacant.

Therefore, the respondent no.3 is directed to take appropriate steps for appointment and consequently issue appointment letter to the petitioner within a period of eight weeks from the date of receipt of copy of this order.

27. With the aforesaid direction, the instant writ application stands allowed. Pending I.A., if any, also stands disposed of.

(Deepak Roshan, J.)

Dated:04 / 11/ 2026
Amardeep/
A.F.R
Uploaded
6.11.2026