

Sharayu Khot & JSN.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 3672 OF 2025

Asha Dhondiram Shinde

...Petitioner

Versus

Union of India & Anr.

...Respondents

Dr. Uday Warunjikar a/w Ms. Sakshi Inamdar and Mr. Jenish Jain
i/by Mr. Sumit S. Kate for the Petitioner.

Mr. Suresh Kumar for the Respondents.

CORAM : R.I. CHAGLA J
ADVAIT M. SETHNA, J

Reserved on : 16TH FEBRUARY 2026.

Pronounced on : 27TH FEBRUARY 2026.

JUDGMENT : (Per R.I. Chagla, J.)

1. By this Writ Petition, the Petitioner is impugning the rejection letter dated 22nd August 2024 (Exh.G to the Petition) of the candidature of the Petitioner for the post of Assistant pursuant to advertisement No. RRC – 01/2019 issued by Respondent No. 1 as well as seeking a direction to Respondent No. 2 to consider the candidature of the present Petitioner for the post of Assistant in the establishment of Respondent No. 2 within such time as this Court

may deem fit and proper.

2. Further direction is sought to Respondent No. 2 to keep one post vacant for the post of Assistant as per advertisement No. RRC – 01/2019.

3. The Petitioner is a blind person having 75% permanent blindness. The copy of the disability certificate of the Petitioner is annexed at Exh.A to the Petition.

4. The Respondent Nos.1 and 2 are State within the meaning of “State” under Article 12 of the Constitution of India.

5. A few relevant facts are set out as under :-

- i. On 23rd February 2019 an advertisement No.CEN RRC – 01 / 2019 was published by Respondent No. 1 for various posts under Indian Railways.
- ii. The Petitioner pursuant to the advertisement appeared for the examination of class D grade. The Petitioner

filled the form for the said post and accordingly, Admit Card was issued to the Petitioner.

- iii. The Petitioner downloaded the examination time and date intimation letter from the website of the Respondent No. 2.
- iv. The Petitioner appeared for the examination and passed the said examination with gracious marks.
- v. The Petitioner received a call letter for the document verification and medical verification. Accordingly, the document verification was carried out by the Respondent No. 2 on 14th February 2024.
- vi. On 22nd August 2024, vide the rejection letter, the Respondent No. 2 informed the Petitioner that the Petitioner had been disqualified on the ground that the board from which the Petitioner had passed its matriculation exam was not recognized and the Petitioner was not considered as having done her

matriculation. The said rejection letter dated 22nd August 2024 has accordingly been impugned in the present Writ Petition.

6. Dr. Uday Warunjikar, the learned Counsel for the Petitioner has submitted that the State Government Resolution dated 28th February 2007 has given recognition to the Uttama course, which the Petitioner had successfully completed, having equivalence to that of the SSC. He has submitted that in view thereof, the Petitioner is considered to have matriculated.

7. Dr. Warunjikar has referred to the three courses mentioned in the Government Resolution dated 28th February 2007 of the Mumbai Hindi - Vidyapeeth, Mumbai, viz. Uttama, Bhasha Ratna and Sahitya Sudhakar, which is mentioned to have equivalence with SSC, Inter (12th) and B.A. respectively.

8. Dr. Warunjikar has submitted that the Petitioner being a disabled person, viz. having 75% life blindness is in any event to be afforded reasonable accommodation in her eligibility to the post of Group D Level 1 in the Indian Railways.

9. Dr. Warunjikar has placed reliance upon the judgment of the Supreme Court in **Sujata Bora Vs. Coal India Limited & Ors.**¹, wherein the Supreme Court had considered the case of the Appellant, who had appeared for Initial Medical Examination (“IME”), and had been declared unfit on the ground that she was not only suffering from visual disability, but also from residuary partial hemiparesis. The Supreme Court had considered the Rights of Persons with Disabilities Act, 2016 (for short “**RPwD Act**”) as well as the law laid down by the Supreme Court regarding Fundamental Rights and Directive Principles of State Policy as well as the UN Guiding Principles on Business and Human Rights (Guiding Principles) as endorsed by the United Nations Human Rights Council in 2011, on the aspect of ‘Corporate Responsibility to Respect Human Rights’. He has submitted that the Supreme Court in its judgment has placed reliance on its prior decisions in **Omkar Ramchandra Gond Vs. The Union of India**²; **Om Rathod Vs. Director General of Health Services**³ and **Ch. Joseph Vs. Telangana SRTC**⁴, which have all considered in the context of the provisions of RPwD Act, the concept of “*reasonable*

1 2026 SCC OnLine SC 58

2 2024 INSC 775

3 2024 SCC OnLine SC 3130

4 2025 SCC OnLine SC 1592

accommodation". In **Omkar Ramchandra Gond (Supra)**, Section 2(y) of RPwD Act has been referred to and which defines "reasonable accommodation" to mean 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. In **Ch. Joseph** (supra) the principle of "*reasonable accommodation*" is held to have been recognised as an aspect of substantive equality under Articles 14 and 21 of the Constitution of India.

10. Dr. Warunjikar has submitted that in **Rajive Raturi Vs. Union of India**⁵, which has also been relied upon in **Sujata Bora** (supra), it has been held that the duty to provide reasonable accommodation is an ex nunc duty, which means that it is enforceable from the moment an individual with an impairment needs it in a given situation (workplace, school, etc.) in order to enjoy her or his rights on an equal basis in a particular context.

11. Dr. Warunjikar has submitted that the Supreme Court has accordingly held that it is abundantly clear that the rights

⁵ (2024)16 SCC 654

of persons with disabilities have to be viewed from the prism of Corporate Social Responsibility in order to protect and further such rights. True equality at the workplace can be achieved only with the right impetus given to disability rights as a facet of Corporate Social Responsibility. In **Sujata Bora** (supra), the Supreme Court Bench has held that they are sure that the Chairman of Coal India will provide a suitable position/posting commensurate with the ability of the Appellant, and in such circumstances, the Appellant be provided a suitable desk job with a separate computer and keyboard, as per universal design as defined under Section 2(ze) of the RPwD Act. The Chairman of Coal India Limited was directed to post the Appellant at North Eastern Coalfields Coal India Ltd., having an office at Margherita, Tinsukia, Assam.

12. Dr. Warunjikar has referred to the case relied upon by the Respondents in its Affidavit in Reply to the Petition viz. **Dhiraj S/o Narayan Narekar Vs. Maharashtra State Road Transport Corporation**⁶. The Full Bench had been constituted pursuant to the referral order dated 2nd August, 2023 passed in Writ Petition No. 5068 of 2019, where the Bench of this Court found discord between

⁶ WP 5068 of 2019 order dated 27th January 2025 Full Bench (Nagpur Bench)

the view taken in **Vijay Rai v. Maharashtra State Road Transport Corporation (MSRTC)**⁷ and **Pravin S/o. Sahebrao Deshmukh v. Vice Chairman and Managing Director, MSRTC & Anr.**⁸ In these judgments this Court was not considering the case of a disabled person, but a candidate who had sought employment in MSRTC. He has submitted that these cases are clearly distinguishable from the present case, where the Petitioner, being a disabled person, is seeking Class IV employment in Indian Railways. He has submitted that in that case, the issue which had been framed was “Whether the applicability of equivalence prescribed by Government Resolution dated 14/6/1999 is restricted to the matters stated therein or whether such equivalence can also be made applicable to employees of the Maharashtra State Road Transport Corporation?”. He has submitted that it is in this context that the Government Resolution dated 14th June 1999, which would indicate that the equivalence granted to a qualification of Uttama (Hindi Literature) by the Hindi Sahitya Sammelan, Allahabad as being equivalent to BA Hons was considered. Reference had been made to Clause 3(b) of the Government Resolution dated 14th June 1999, which mandates that the said equivalence would be permissible to be taken into

⁷ 2013 SCC OnLine Bom 178.

⁸ 2017 (7) Mh.L.J. 860.

consideration only while appointing Hindi Teachers in Secondary School.

13. Dr. Warunjikar has submitted that the Full Bench has in consideration of the Government Resolution dated 14th June 1999 indicated that the equivalence granted therein is only for the purpose of subject 'Hindi' and not for the entire graduate examination. The Full Bench has in this context held that the equivalence granted to the qualification of Uttama by the Bombay Hindi University, as being equivalent to SSC, cannot be said to be of universal applicability, but is restricted only to the subject 'Hindi', for the purpose of considering a person to be appointed as a Hindi teacher in Secondary School and not otherwise.

14. Dr. Warunjikar has submitted that the judgment of the Full Bench has no applicability in the present case as the Full Bench was not considering a case of Petitioner who is disabled and seeks Class IV employment. This is apart from the settled law of reasonable accommodation provided under the RPwD Act. Further, the said Government Resolution dated 28th February, 2007 itself provides for equivalence granted to a qualification of Uttama with

SSC matriculation.

15. Dr. Warunjikar has submitted that from **Vijay Rai (Supra)** and **Pravin S/o. Sahebrao Deshmukh (Supra)**, it is apparent that what was being considered was the qualification of “Sahitya Sudhakar” awarded to the Petitioner being equivalent to graduation, i.e. B.A. in context of the post of Clerk-Typist (Junior) in MSRTC. He has submitted that none of these judgments are applicable in the present case.

16. Dr. Warunjikar has referred to the judgment of Division Bench of this Court in **Shabana Rashid Pinjari Vs. Maharashtra Public Service Commission, Through its Chairman**⁹, wherein Division Bench of this Court had considered the case of the Petitioner, who had battling and surmounting debility against visual impairment (100% blindness). The Division Bench of this Court had relied upon the decisions of the Supreme Court including **Vikas Kumar v. Union Public Service Commission**¹⁰. In the said judgment at paragraph 45 it is held that the principle of reasonable

⁹ 2025 SCC OnLine Bom 1198

¹⁰ (2021) 5 SCC 370.

accommodation acknowledges that if disability as a social construct has to be remedied, conditions have to be affirmatively created for facilitating the development of the disabled. Reasonable accommodation is founded in the norm of inclusion. Exclusion results in the negation of individual dignity and worth or they can choose the route of reasonable accommodation, where each individuals' dignity and worth is respected. Under this route, the "powerful and the majority adapt their own rules and practices, within the limits of reason and short of undue hardship, to permit realization of these ends".

17. Dr. Warunjikar has submitted that the Division Bench of this Court in **Shanta Sonawane Vs. Union of India & Anr.**¹¹, has held that the concept of fairness in dealing with persons with disabilities is not only of treating them equal with others but of an affirmative action.

18. Dr. Warunjikar has submitted that the Division Bench in **Shanta Sonawane (Supra)** had also dealt with the preliminary objection on jurisdiction which has been raised by Mr.

¹¹ 2024 SCC OnLine Bom 662.

Suresh Kumar, the learned Counsel for the Respondents herein viz. that the Central Administrative Tribunal would have jurisdiction in such matters considering that the matter is related to service with the Union of India. It has been held that the Petitioner is not only raising a dispute regarding services with the Union of India but also seeking enforcement of the rights and obligations under the RPwD Act.

19. Mr. Suresh Kumar has relied upon the judgment of the Supreme Court in **L. Chandra Kumar Vs. Union of India & Ors.**¹² in support of his submission that the Supreme Court has recognised that Tribunals created under Article 323-A and Article 323-B of the Constitution are possessed of the competence to test the constitutional validity of statutory provisions and rules. It has been held that the Tribunals will, nevertheless, continue to act like Courts of first instance in respect of the areas of law for which they have been constituted and that it will not, therefore, be open for litigants to directly approach the High Courts even in cases where they question the vires of statutory legislations by overlooking the jurisdiction of the concerned Tribunal.

¹² (1997)3 SCC 261

20. Mr. Suresh Kumar has placed reliance on the judgment of the Supreme Court in *Suo Moto Writ Petition (Civil) No.2 of 2024. Re : Recruitment of Visually Impaired in Judicial Services*¹³. He has submitted that the Supreme Court in the said judgment considered a set of cases which raise important issues that touch upon the umbrella of rights in respect of the differently abled persons or PwD who have been afforded special protection under the law. This was in the context of the suitability of visually impaired persons being qualified with a degree in law to be appointed as judicial officers. The Supreme Court considered that relaxation can be done in assessing suitability of candidates when enough PwDs are not available after selection in their respective category to the extent, as stated in the relevant paragraphs in the said judgment and in the light of existing Rules and Official Circulars and Executive Orders in this regard.

21. Mr. Suresh Kumar has submitted that the said judgment of the Supreme Court in *S.N.W. (C) No.2 of 2024*, which is in the context of recruitment to Judicial Service, it has been held that separate qualifying marks are required to be provided for PwBD

¹³ *Suo Motu Writ Petition (Civil) 2 of 2024 :: 2025 SCC OnLine SC 481*

(Person with Benchmark Disability) in preliminary and main examinations. The Supreme Court also observed that qualifying marks should ordinarily be the same for SC/ST candidates or can even be lower, if so prescribed by the relevant Rules. If the Rules are silent, then the Competent Authority can lay down such qualifying marks.

22. Mr. Suresh Kumar has submitted that in that case the relaxation of the PwD candidate and / or reasonable accommodation provided to him was in order that he does not face discrimination in pursuit of Judicial Service opportunities. He has submitted that reasonable accommodation cannot be stretched to the extent which the Petitioner has sought in the present case viz., to draw an equivalence of the Uttama Course to SSC matriculation. He has referred to the impugned communication dated 22nd August, 2024, which had been addressed by the Assistant Personal Officer (R.D.K.), of Respondent No.2, wherein the candidacy of the Petitioner was disqualified for recruitment to the Level 1 post in PwBD – VI category under Centralized Employment Notice No. RRC /01/2019. This was on the ground that the examinations conducted by such Hindi Universities, for Uttama / Bhasha Ratna /

Sahitya Sudhakar Hindi Level examination conducted by the Central Government has not been approved by the board to be equivalent to SSC / HSC / BA level examination. He has accordingly submitted that the present Petition lacks merit and is required to be dismissed.

23. Having considered the submissions, in our view, there is no merit in the preliminary objection taken by the Respondents on the maintainability of the Petition on the ground that there is an alternate remedy available to the Petitioner to approach Central Administrative Tribunal (“CAT”) in view of the matter being related to service with the Union of India.

24. The Petitioner being a specially abled person has sought enforcement of his rights and obligations under the RPwD. In a similar case where the Petitioner was a disabled person, the Division Bench of this Court in **Shanta Digambar Sonawane** (Supra) has considered the objection as raised here namely that the matter being related to service with the Union of India, the Petition should be dismissed on the grounds of alternate remedy to approach the CAT. The Division Bench of this Court has held that in view of the Petitioner not only raising dispute regarding services with the Union

of India but also seeking enforcement of rights and obligations under the RPwD Act as well as his constitutional/fundamental rights, this Court would have jurisdiction under Article 226 of the Constitution of India and by declining to exercise Writ jurisdiction, this would result in failure of justice and would defeat the spirit behind the RPwD Act.

25. The Petitioner as a (specially abled) person is seeking the candidature for the post of Group – D Level 1 with the Respondents - Indian Railways. This is pursuant to an advertisement published by Respondent No.1 on 23rd February, 2019 for various posts under the Indian Railways. The Petitioner having been successful in the examination conducted by the Respondent No.2, has been disqualified on the ground that the Uttama Board from which the Petitioner passed, is not recognized to have equivalence with the SSC Matriculation. This is borne out from the impugned rejection letter dated 22nd August, 2024, (Exhibit G to the Petition).

26. The reliance placed by Mr. Suresh Kumar on the Full Bench judgment of this Court (Nagpur Bench) in **Dhiraj S/o. Narayan Narekar** (Supra), is misplaced. In that judgment, the Full

Bench was considering the issue of whether the applicability of equivalence prescribed by GR dated 14th June, 1999 is restricted to the matters stated therein or whether such equivalence can also be made applicable to the employees of MSRTC. The Full Bench upon a perusal of the GR dated 14th June, 1999 was of the view that it indicated that the equivalence of Uttama (Hindi Literature) by the Hindi Sahitya Sammelan was equivalent to BA Hons only for the purpose, as indicated in Clause 3(b) of the GR while appointing Hindi Teachers in Secondary School. The judgments of this Court relied upon in the said judgment pertain to a consideration of the equivalence of qualification of 'Sahitya Sudhakar' awarded to the Petitioner to the BA graduation. It was held by the Full Bench that the equivalence should be accepted only while appointing the incumbent on the post of Hindi teachers. These decisions are not applicable to a case of a Petitioner seeking Class – IV employment and wherein the Petitioner was placing reliance upon the GR dated 28th February, 2007, where Uttama has been shown to have equivalence to SSC Matriculation. The Full Bench has in the context of that case held that equivalence granted to Uttama by Bombay Hindi University as being equivalent to SSC cannot be said to be of universal applicability but is restricted only to the subject "Hindi" for

the purpose of considering a person to be appointed as a Hindi teacher in secondary school and not otherwise. The Full Bench judgment accordingly is distinguishable on facts and has no applicability to the case at hand.

27. The Supreme Court has in several judgments including in the recent judgments in **Sujata Bora** (Supra) and **Re.: Recruitment of Visually impaired in Judicial Service** (Supra) has enunciated the principal of reasonable accommodation in the context of the RPwD Act. It is pertinent to note that the Supreme Court in **Re. : Recruitment of Visually impaired in Judicial Service** (Supra) has at paragraph 67 held that, the principal of reasonable accommodation, as enshrined in International Conventions, established jurisprudence and the RPwD Act mandate that the accommodations be provided to PwDs as a pre-requisite to assessing their eligibility. In the light of the above, any indirect discrimination that results in the exclusion of PwDs, whether through rigid cut-offs or procedural barriers, must be interfered with in order to uphold substantive equality. The commitment to ensure equal opportunities necessitates a structured and inclusive approach, where merit is evaluated with due regard to the reasonable accommodations required, thereby fostering judicial

appointments that truly reflects the principal of fairness and justice. Thus, the Supreme Court has considered that it is the mandate of the RPwD Act that reasonable accommodation is provided to PwDs as a pre-requisite to assessing their eligibility.

28. In the present case, the Petitioner is seeking her eligibility to the post of Group D Level 1 of the Indian Railways. The Petitioner though being successful in the examinations has been held to be ineligible merely because of the view taken by the Respondents in the impugned rejection letter that, the 10th Uttama examinations which the Petitioner has successfully passed does not meet the minimum educational qualification required for recruitment to Level – 1 post in the PwBD - VI category under Centralized Employment Notice No. RRC/01/2019. Presuming that such a view is correct, the Petitioner who is a PwD is required to be provided accommodation as pre-requisite to assessing her eligibility as held by the Supreme Court in **Re.: Recruitment of Visually Impaired in Judicial Service** (Supra). The action of the Respondents in rejecting her candidature would in our view be in violation of the principles of reasonable accommodation.

29. We do not find merit in the submissions of Mr. Suresh Kumar that the reasonable accommodation sought by the Petitioner in the present case goes beyond the reasonable accommodation which has been provided by the RPwD Act and / or as laid down by the Supreme Court in the aforementioned judgments. We consider this to be an appropriate case, where such reasonable accommodation is required to be provided to the Petitioner in order for the Petitioner to have equal opportunity where merit is evaluated with due regard to reasonable accommodations.

30. Further, in **Shabana Rashid Pinjari v. Maharashtra Public Service Commission**, in Writ Petition No.6706 of 2025, judgment dated 11th November, 2025, the Division Bench of this Court has placed reliance upon **Sunanda Bhandari Foundation v. Union of India & Anr**¹⁴ and observed that in the matter of providing reliefs to those who are differently abled, the approach and attitude of the executive must be liberal and relief orientated and not obstructive or lethargic.

31. We accordingly find merit in the present Petition.

¹⁴ AIR 2014 SC 2869

Hence, the following Order is passed:-

- i. The impugned rejection letter dated 22nd August, 2024 of Respondent No.2 rejecting the candidature of the Petitioner to the post of Group – D Level – 1 in the Respondents - Indian Railways is quashed and set aside.
- ii. The Respondent No.2 is directed to consider the candidature of the present Petitioner for the post of Assistant viz. Group – D Level 1 within a period of three weeks from uploading of this Order. The Respondent No.2 shall till then keep one post vacant for the Petitioner as per advertisement No. RRC – 01/2019.
- iii. The Writ Petition is accordingly made absolute and disposed of. There shall be no order as to costs.

[ADVAIT M. SETHNA, J.]

[R.I. CHAGLA J.]