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WP(MD) No. 8435 of 2013

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10-02-2026

CORAM

THE HON'BLE DR.JUSTICE ANITA SUMANTH

AND

THE HON'BLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

WP(MD) No. 8435 of 2013

AND

WMP(MD) Nos. 1, 2 and 3 OF 2013

M.Ponniah

..Petitioner(s)

Vs

1. The Chief Secretary to Government,
Government of Tamil Nadu, Secretariat Chennai.
2. The Secretary to Government
Government of Tamilnadu, Public (Special A)
Department, Secretariat, Chennai.
3. The Registrar General,
Madras High Court, Chennai- 600 104.

..Respondent(s)

Prayer: Writ Petition filed under article 226 of Constitution of India for issuance of writ of Certiorarified Mandamus calling for the records relating to the impugned notification issued by the 2nd Respondent on 01.05.2013, inviting application for direct recruitment and appointment for the post of District Judges (Entry level) and quash the same as illegal and consequently direct the



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2nd Respondent herein to issue fresh notification in transparent manner indicating the number of vacancies ear-marked for physically challenged persons by providing 3% reservation for the post of District Judges (Entry Level) in accordance with Section 33 of the Persons with Disabilities (Equal Opportunities, Protection of rights and full participation) Act 1995.

For Petitioner(s): Mr.NambiAarooran
for M/s. S.Ajmal Associates

For Respondent(s): Mr.P.Anandakumar
Government Advocate (for R1 & R2)
Mr.P.K.Rajagopal (for R3)

ORDER

(Order of the Court was made by Dr.Anita Sumanth J.)

The petitioner is affected by Polio from the hip downwards, and suffers from locomotive disability. He had been a petitioner in W.P.(MD)No.1691 of 2011, where the challenge had been to G.O.Ms.No.16 Public (Special.A) Department dated 05.01.2011 on the ground that no reservation had been provided for the category of Persons with Disability (PwD). The petitioner had therein, sought a consequential direction for his appointment as District Judge (Entry level).

2. That Writ Petition had been taken up along with other Writ Petitions culminating in decision dated 11.03.2011, wherein the Division Bench, after



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hearing the rival contentions advanced, was of the opinion that they had to strike a balance in the situation. They took note of the Constitutional mandate for provision of reservation for PwD, noting simultaneously that the State Government had not identified the posts meant for reservation. In the ultimate analysis, they were of the view that it was not an appropriate case to disturb the selection of judges already made.

3. The Writ Petitions were thus dismissed making it clear that there shall be a provision for reservation of PwD in fulfillment of the constitutional mandate in the immediate next vacancy of District Judges subject to availability and suitability of the candidate. In the present Writ Petition, the challenge is to Notification dated 01.05.2013 along lines similar to the earlier Writ Petition, on the ground of no reservation having been provided for the category of PwD.

4. Mr.Nambi Aarooran, learned counsel who appears for the petitioner reiterates the relevant events leading to the institution of the earlier writ petition, stating that Notification dated 24.06.2010 had been issued calling for applications for appointment of 17 District Judges.

5. The petitioner had been aggrieved by the fact that there was no reservation provided for PwD as mandated under the Persons with Disabilities (Equal Opportunities, Protection of rights and full participation) Act 1995 (1995



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Act), that provides for reservation of 3% to be provided for the category of PwD, and the State Rules.

6. The petitioner had participated in the process of selection, albeit unsuccessfully. He challenged his non-selection along with other unsuccessful candidates, and the Writ Petition had been dismissed, this Court directing R3 in conclusion, to ensure proper representation of persons in PwD category in the next selection.

7. The present Writ Petition assails the selection of District Judges (Entry level) pursuant to Notification dated 01.05.2013 (2013 Notification). The petitioner had applied for, and participated in the process of selection unsuccessfully, aggrieved by which, he has challenged the 2013 Notification and the selection process, on the ground that the selection had not been made in a transparent manner and was in violation of the constitutional mandate of providing opportunity for physically challenged persons in employment.

8. Mr.P.K.Rajagopal, learned counsel for the 3rd respondent, i.e., the Registrar General, High Court, would first argue that much water has flown under the bridge since the date of the impugned Notification. The process of selection was complete in 2014 and the appointees have been in service



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thereafter. Their services are without blemish and their position cannot be disturbed now.

9. While acceding to the position that 3% reservation has been earmarked for PwD under the 1995 Act, Mr.Rajagopal draws our attention to Section 32(a) of the 2016 Act that requires identification of the post in which reservation is to be provided. Referring to the Tamil Nadu State Judicial Service (Cadre and Recruitment) Rules, 2007 (in short 'Rules'), he points to Rule 10, that provides for reservation in appointments. The Rule, at it stood at the relevant point in time, identified only the post of Civil Judge (Junior Division) as being eligible for reservation.

10. Thus, according to him, it is only upon identification of the post by the State that the benefit of reservation would be provided for the post identified. As a result, though Rules 21(b) and 22 of the General Rules for Tamil Nadu State and Subordinate Services provide for reservation both for the posts of District Judge (Entry Level) and Civil Judge (Junior Division), only a Civil Judge (Junior Division) has been selected for the benefit of reservation under the category of PwD.

11. It was only in 2023 that Rule 10 had been amended, by virtue of which the benefit of reservation under the category of PwD was extended to



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District Judge (Entry level) as well. Hence, according to him, there was no error in the non-selection of the petitioner, as the Rule position did not permit such selection. He relies on various judgements that we shall advert to presently.

12. We have heard both learned counsel and perused the case law cited.

13. The petitioner was affected with Polio and has a locomotive disability rendering him immobile from the hip downwards. He had instituted W.P.No.1691 of 2011 challenging G.O.Ms.No.16 dated 05.01.2011 that had been issued for selection of District Judges (Entry level) without providing for reservation for the physically challenged. The eligibility criteria was 7 years of practice. The distribution of vacancies was as follows:

<i>General Turn</i>	<i>4 (1 Woman)</i>
<i>Scheduled Caste (Arunthathiyars on Preferential basis)</i>	<i>1 (1 Woman)</i>
<i>Most Backward Classes and Denotified Communities</i>	<i>4 (1 Woman)</i>
<i>Backward Classes (other than Backward Class Muslims)</i>	<i>4(1 woman)</i>
<i>Scheduled Caste</i>	<i>3 (1 Woman)</i>
<i>Backward Class Muslim</i>	<i>1(1 Woman)</i>
	<i>-----</i>
	<i>17</i>

14. There was no reservation provided for the category of PwD and the Petitioner and four others challenged the same as being a violation of their fundamental right to employment. The Writ Petition came to be dismissed in



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*P.Senthil Kumaran and others v. The Registrar General and others*¹ by order dated 11.03.2011, the Court making it clear that in the immediate next recruitment, available vacancies shall be filled in by an appropriate candidate in the category of PwD.

15. The present Writ Petition, WP(MD) No. 8435 of 2013, assails the selection of District Judges (Entry level) pursuant to Notification dated 01.05.2013. The distribution of seats under this Notification is as follows:

<i>Backward Classes (Other than Backward Class Muslims)</i>	6	(women-2)
<i>General Turn</i>	8	(women-4)
<i>Scheduled Castes</i>	3	(women-1)
<i>Most Backward Classes and Denotified Communities</i>	4	(women-1)
<i>Scheduled Castes (Arunthathiyars on preferential basis)</i>	1	
<i>Backward Class Muslims</i>	1	(women-1)

<i>Total</i>	23	

16. The Petitioner had applied and gone through the process of selection. He was not selected, aggrieved by which, he has challenged the 2013 Notification on the ground that the selection was not made in a transparent manner and was in violation of the Constitutional mandate of providing equal opportunity for physically challenged persons in employment.

¹ (W.P.No.3087 of 2011 etc. batch dated 11.03.2011)



17. The defence of the respondents rests upon Sections 33 and 34 of the 2016 Act that provides for identification of posts for reservation. According to them, Rule 10 of the Rules had, at the relevant point in time, identified only the post of Civil Judge for reservation and it was only in 2023 that the post of District Judge (Entry level) had been identified. Hence there was no avenue available to have provided for the reservation sought for by the petitioner in the 2013 Notification.

18. Before us, the Petitioner only contests the issue of reservation and does not advert to the mode and manner of selection or the alleged opaqueness in such selection. Hence, we restrict ourselves solely to the legal issue concerning the provision of reservation for the category of PwD. This issue has been the subject matter of several decisions and we chronicle below relevant cases dealt with by the Supreme Court and the High Courts, cited by the parties.

19. In *Kunal Singh v. Union of India and another*² (2003) the Supreme Court, adumbrating the statutory provisions of the Act, noted the salutary object for which the 1995 Act had been enacted, and emphasized the necessity for proper implementation of the provisions and the reservation provided thereunder.

² 2003 (4) SCC 524



20. In *Government of India through Secretary and another Vs. Ravi Prakash Gupta and another*³ (2010), the aspirant was visually handicapped and the handicap was 100%. Though he had cleared the preliminary and main examinations, and was at serial number five of the merit list prepared for visually handicapped persons, since there was only one vacancy in that category, he was not appointed. The questions that were formulated for resolution were as follows:

(a) whether on account of the failure of the petitioner to identify posts for persons falling within ambit of Section 33 of the Disabilities Act, 1995, the first respondent namely, Mr. Ravi Prakash Gupta should be deprived of the benefit of his selection purportedly on the ground that there were no available vacancies in the said category?

(b) whether the reservation provided for in Section 33 of the Disabilities Act, 1995, was dependent on identification of posts suitable for appointment in such categories, as has been sought to be contended on behalf of the Government of India in the instant case?

21. The answer to the questions were in the following terms:

“27. It is only logical that, as provided in Section 32 of the aforesaid Act, posts have to be identified for reservation for the purposes of Section 33, but such identification was meant to be simultaneously undertaken with the coming into operation of the Act, to give effect to the provisions of Section 33. The legislature never intended the provisions of Section 32 of the Act to be used as a tool to deny the benefits of Section 33 to these categories of disabled persons indicted therein. Such a submission strikes at the foundation of the

³ (2010) 7 SCC 626



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provisions relating to the duty cast upon the appropriate Government to make appointments in every establishment (emphasis added).

29. *While it cannot be denied that unless posts are identified for the purposes of Section 33 of the aforesaid Act, no appointments from the reserved categories contained therein can be made, and that to such extent the provisions of Section 33 are dependent on Section 32 of the Act, as submitted by the learned ASG, but the extent of such dependence would be for the purpose of making appointments and not for the purpose of making reservation. In other words, reservation under Section 33 of the Act is not dependent on identification, as urged on behalf of the Union of India, though a duty has been cast upon the appropriate Government to make appointments in the number of posts reserved for the three categories mentioned in Section 33 of the Act in respect of persons suffering from the disabilities spelt out therein. In fact, a situation has also been noticed where on account of non-availability of candidates some of the reserved posts could remain vacant in a given year. For meeting such eventualities, provision was made to carry forward such vacancies for two years after which they would lapse. Since in the instant case such a situation did not arise and posts were not reserved under Section 33 of the Disabilities Act, 1995, the question of carrying forward of vacancies or lapse thereof, does not arise.”*

22. In *K.Appadurai v. Secretary to Government, Public (Special.A) Department and others*⁴ (2010) a batch of writ petitions challenging Notification dated 01.07.2010 calling for applications for the post of District Judge (Entry Level) on various grounds had been heard. In W.P.No.16383 of 2010 and W.P. (MD) No.9119 of 2010, the challenge was on the specific ground that the number of vacancies earmarked for disabled candidates was not indicated in the

⁴ 2010 (5) CTC 1



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Notification. It had hence been contended that the Notification was liable to be withdrawn.

23. The defence of the respondents was that the reservation in recruitment in respect of PwD was governed by G.O.Ms.No.87 dated 17.07.2008. That G.O. provided that a 200 point roster would be divided into 6 classifications and an equal ratio of 1:1:1 would be provided for the three categories of blindness, deafness and orthopaedically challenged.

24. Hence, the authority intended to ensure 3% reservation by appointing one individual belonging to each category in each of the six blocks in the 200 point Communal Roster. They contended that reservation for differently abled persons comes under horizontal reservation and hence the accommodation would be to a person who had qualified on merit who would be absorbed under his respective communal quota.

25. The Registrar General of this Court towed the same line. This stand was accepted by the Court that held that, in light of the aforesaid G.O., there was nothing to indicate that the stipulation therein would not be followed by the appointing authority at the time of appointment. The Writ Petitions thus came to be dismissed.



26. In the case of *P.Senthil Kumaran*⁵(2011), where this petitioner was also a party, the challenge was to a Notification of the year 2010. The Court took cognizance of the position that the appointees were in office, and was not inclined to disturb them. However, they were equally clear that the non-provision of the reservation for candidates with PwD constituted a violation of the constitutional mandate. In fine, they say,

24. In such view of the matter, looking into any angle, we are of the firm view that the contentions raised by the petitioners and their respective counsel are not tenable and the writ petitions fail and the same are dismissed. However, we make it clear that inasmuch as providing appointment to physically challenged person is a constitutional mandate and all directive principles are in tune with the fundamental rights, in the event of any vacancy arising out of 17 appointments, or otherwise in the immediate next vacancy of the District Judges (Entry Level), the same shall be filled up by a person with disability by fulfilling the constitutional mandate, of course, subject to the availability of the candidates and the suitability therefor. No costs. Connected miscellaneous petitions are closed.

27. There is thus a positive direction to the Registrar General to make good the error that had occasioned in the 2010 Notification by providing reservation in the category of PwD in the next ensuing recruitment.

28. In *T.M.N.Deepak V. State of Tamil Nadu*⁶ (2011), Public Interest Litigation had been initiated before the Madras High Court praying for

⁵ Foot Note Supra (1)

⁶ 2011 (2) CTC 353



appropriate directions to ensure 3% reservation for persons with disabilities.

Again, the argument of identification of posts was taken. The Tamil Nadu Public Service Commission cited G.O.Ms.No.105 dated 20.06.2000 and G.O.Ms.No.53 dated 11.04.2005, that 3% reservation had been specifically provided for under the former, and a list of 117 posts had been identified under Group A and B categories under the purview of Teachers Recruitment Board and Tamil Nadu Public Service Commission as suitable for persons with disabilities, in the latter.

29. Consequently, there was a direction to carve out 3% reservation in the posts as identified, and at paragraph 17, the High Court issued the following directions:

“17.Further, the Government should also explore the possibility and arranging recruitment of the differently abled persons in Government companies and public sector undertakings and regular recruitment drives could be conducted, where the Government companies and public sector undertakings should be directed to participate. Likewise the Government shall also explore for organizing special recruitment drive for the differently abled in association with Corporate sector on a regular basis at frequent intervals, so that there is a wider spectrum of the job opportunities available to such persons. Immediate steps shall be taken to clear the backlog vacancies and the Government should ensure that the rule of reservation of 3% shall be adhere to strictly in accordance with Section 27 33 of the Act and as stated in the report submitted by the State Commissioner for disabled to give full and effective implementation to the provisions of the Act.”



30. The defence of the Respondent in the present case is premised on Section 33(a) of the 1995 Act, and the fact that the post of District Judge (Entry level) had not been identified for the purpose of reservation. This very defence had been considered and rejected by the Supreme Court in *Union of India and another V. National Federation of the Blind and others*⁷(2013).

31. The Supreme Court in the judgment in *National Federation of the Blind*⁸ (2013) has specifically deprecated the attempt to truncate reservation under PwD category and have cautioned against abusing the language of Section 32 which provides for '*identification*', as a tool to exclude persons with disabilities from their constitutional and fundamental right to reservation in employment.

32. Three Hon'ble Judges of the Supreme Court in the case of *National Federation of the Blind*⁹ record the history by which equal opportunity was sought to be extended to persons with disability from 1977 onwards when the first attempt of reservation had been made in favour of three categories of persons in Group C and D posts i.e., those with visual impairment, hearing and speech impairment, and persons with locomotor disability.

⁷ (2013) 10 SCC 772

⁸ Foot Note Supra (7)

⁹ Foot Note Supra (7)



33. Referring to the 1995 Act, the Bench issued directions to the Governments to compute the number of vacancies available in all establishments, identify posts for differently abled persons and implement their order within three months from the date of that judgment without default.

34. Coming down strongly upon all Departments, Public Sector Undertakings and Government Companies, the Court declared that the non-observance of the scheme of reservation for persons with disabilities should be considered as an act of non-obedience and the Nodal Officer in the concerned Department/organisation, who was fastened with the responsibility for proper and strict implementation of the Reservation Policy, should be departmentally proceeded with, in the event of default.

35. We extract relevant portions of the judgment in *National Federation of the Blind*¹⁰ below:

“27.It is only logical that, as provided in Section 32 of the aforesaid Act, posts have to be identified for reservation for the purposes of Section 33, but such identification was meant to be simultaneously undertaken with the coming into operation of the Act, to give effect to the provisions of Section 33. The legislature never intended the provisions of Section 32 of the Act to be used as a tool to deny the benefits of Section 33 to these categories of disabled persons indicted therein. Such a submission strikes at the foundation of the provisions relating to the duty cast

¹⁰ Foot Note Supra (7)



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upon the appropriate Government to make appointments in every establishment (emphasis added).

29. While it cannot be denied that unless posts are identified for the purposes of Section 33 of the aforesaid Act, no appointments from the reserved categories contained therein can be made, and that to such extent the provisions of Section 33 are dependent on Section 32 of the Act, as submitted by the learned ASG, but the extent of such dependence would be for the purpose of making appointments and not for the purpose of making reservation. In other words, reservation under Section 33 of the Act is not dependent on identification, as urged on behalf of the Union of India, though a duty has been cast upon the appropriate Government to make appointments in the number of posts reserved for the three categories mentioned in Section 33 of the Act in respect of persons suffering from the disabilities spelt out therein. In fact, a situation has also been noticed where on account of non-availability of candidates some of the reserved posts could remain vacant in a given year. For meeting such eventualities, provision was made to carry forward such vacancies for two years after which they would lapse. Since in the instant case such a situation did not arise and posts were not reserved under Section 33 of the Disabilities Act, 1995, the question of carrying forward of vacancies or lapse thereof, does not arise.”

36. In *V.Surendra Mohan v. State of Tamil Nadu and two Ors.*¹¹, (2015)

too, the question related to reservation for persons with disabilities, but the disability was one of total blindness and hearing impairment. The Writ Petition was dismissed and the matter travelled to Supreme Court, which confirmed¹² the said dismissal.

¹¹ W.P.No.10582 of 2015 dated 05.06.2015

¹² Civil Appeal No.83 of 2019 arising out of SLP(Civil).No.17223 of 2015) dated 22.01.2019



37. The High Court had advertised that the range of disability would be 40 to 50% and on a challenge to that criteria, both the High Court and Supreme Court felt that the prescription of 40 to 50% was reasonable and did not violate any statutory provision.

38. The Court noted that a judicial officer had to possess reasonable faculties of hearing, sight and speech in order to effectively discharge the roles of a Civil Judge. Hence, they felt that stipulating a limit of 50% disability as a condition of eligibility to the post of a Judge in judicial service is a legitimate restriction that was fair, logical and reasonable. Taking note of the functions and duties performed by the Civil Judge, the Court upheld the order of the High Court in that matter.

39. In *Thanggakolanchinathan v. The Registrar General, High Court of Madras and 2 others*¹³(2016) case, the challenge was to the 2013 Notification on the ground that the petitioner who was physically challenged was denied equal opportunity for such recruitment. The argument now advanced before us, that the State has to identify the post under Section 32(a) of the 1995 Act, and it is only those identified posts in which reservation can be accorded, was made in that case as well.

¹³ W.P.No.17998 of 2013 dated 24.06.2016



40. The Court took note of several judgments of the Supreme Court on this point, ultimately dismissing the Writ Petition subject to certain observations made in paragraph 48 of the decision. We extract below paragraph 48 of that judgement:

48. Therefore, for all the above reasons, considering the spirit and purport of the Disabilities Act coupled with the judgment rendered by the Hon'ble Supreme Court of India reported in (2013) 10 Supreme Court Cases 772 cited supra, we are of the considered view that High Court on its administrative side, is to take a final call/ respond to the clarification sought for by the State Government as to the eligibility/ minimum standards of physical disablement and with reference to the hearing and orthopaedic fitness which are required for the efficient discharge of the duties of the posts in the Tamil Nadu State Judicial Service (Cadre and Recruitment) Rules, 2007, as expeditiously as possible before the next recruitment to the posts of Civil Judge and District Judge (Entry Level).

41. The Court had expressed the view that it is for the Court on its administrative side to take a final call as to what the eligibility or minimum standard of physical disablement would be with reference to hearing and orthopaedic fitness to ensure efficient discharge of the duties of Judges under the Tamil Nadu State Judicial Service (Cadre and Recruitment) Rules, 2007. Realizing the urgency of the matter, the Bench states that such a decision must be taken before the next recruitment to the post of Civil Judge and District Judge (Entry Level).



42. The specific question that had been framed by the Supreme Court in *National Federation of Blind and others*¹⁴ as to ‘whether the reservation provided for the disabled persons under Section 33 of the Act, is dependent upon the identification of posts as stipulated by Section 32’ had been noted by this Court in the case of *Thanggakolanchinathan*¹⁵ and we extract their conclusions hereunder.

“31. In the light of the above 28 pronouncement, it is clear that the scope of identification comes into picture only at the time of appointment of a person in the post identified for disabled persons and is not necessarily relevant at the time of computing 3% reservation under Section 33 of the Act. In succinct, it was held in *Ravi Prakash Gupta* that Section 32 of the Act is not a precondition for computation of reservation of 3% under Section 33 of the Act rather Section 32 is the following effect of Section 33.

32. Apart from the reasoning of this Court in *Ravi Prakash Gupta*, even a reading of Section 33, at the outset, establishes vividly the intention of the legislature viz. reservation of 3% for differently abled persons should have to be computed on the basis of total vacancies in the strength of a cadre and not just on the basis of the vacancies available in the identified posts. There is no ambiguity in the language of Section 33 and from the construction of the said statutory provision only one meaning is possible.

33. A perusal of Section 33 of the Act reveals that this section has been divided into three parts:

33.1. The first part is:

“33. Reservation of posts.-Every appropriate Government shall appoint in every establishment such

¹⁴ Foot Note Supra (7)

¹⁵ Foot Note Supra (13)



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percentage of vacancies not less than 3% for persons with disability.....”

It is evident from this part that it mandates every appropriate Government shall appoint a minimum of 3% vacancies in its establishments for persons with disabilities. In this light, the contention of the Union of India that reservation in terms of Section 33 has to be computed against identified posts only is not tenable by any method of interpretation of this part of the section.

33.2. The second part of this section starts as follows:

“... of which one per cent each shall be reserved for persons suffering from-

- (i) blindness or low vision;*
 - (ii) hearing impairment; and*
 - (iii) locomotor disability or cerebral palsy,*
- in the posts identified for each disability:”*

From the above, it is clear that it deals with distribution of 3% posts in every establishment among 3 categories of disabilities. It starts from the word “of which”. The word “of which” has to relate to appointing not less than 3% vacancies in an establishment and, in any way, it does not refer to the identified posts. In fact, the contention of the Union of India is sought to be justified by bringing the last portion of the second part of the section viz. “... identified posts” in this very first part which deals with the statutory obligation imposed upon the appropriate Government to “appoint not less than 3% vacancies for the persons or class of persons with disabilities”. In our considered view, it is not plausible in the light of established rules of interpretation. The minimum level of representation of persons with disabilities has been provided in this very first part and the second part deals with the distribution of this 3% among the three categories of disabilities. Further, in the last portion of the second part the words used are “in the identified posts for each disability” and not “of identified posts”. This can only mean that out of minimum 3% of vacancies of posts in the establishments 1% each has to be given to each of the 3 categories of disability viz.



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Blind and low vision, hearing impaired and locomotor disabled or cerebral palsy separately and the number of appointments equivalent to the 1% for each disability out of total 3% has to be made against the vacancies in the identified posts. The attempt to read identified posts in the first part itself and also to read the same to have any relation with the computation of reservation is completely misconceived.

33.3. The third part of the section is the proviso which reads thus:

“Provided that the appropriate Government may, having regard to the type of work carried on in any department or establishment, by notification subject to such conditions, if any, as may be specified in such notification, exempt any establishment from the provisions of this section.”

The proviso also justifies the abovesaid interpretation that the computation of reservation has to be against the total number of vacancies in the cadre strength and not against the identified posts. Had the legislature intended to mandate for computation of reservation against the identified posts only, there was no need for inserting the proviso to section which empowers the appropriate Government to exempt any establishment either partly or fully from the purview of the section subject to such conditions contained in the notification to be issued in the Official Gazette in this behalf. Certainly, the legislature did not intend to give such arbitrary power for exemption from reservation for persons with disabilities to be exercised by the appropriate Government when the computation is intended to be made against the identified posts.”

43. Having noted all these points, the Court dismissed the Writ Petition on the basis that Rule 10 of the Tamil Nadu State Judicial Service (Cadre and Recruitment) Rules, 2007 had not been put to challenge.

44. In light of the discussion as above, we are left in no doubt that the observations, conclusions and directions in the case of *National Federation of*



*the Blind*¹⁶, of 2013 vintage, are liable to be implemented in full. The position as on date, is thus that the requirement of 'identification' of post, would, and should not serve as a means by which the benefit of reservation could be delayed, denied or even restricted. R3 has clearly taken undue advantage of Section 33 that provides for identification of posts for reservation and reads as follows:

33. Identification of posts for reservation.- The appropriate Government shall –

- i) identify posts in the establishments which can be held by respective category of persons with benchmark disabilities in respect of the vacancies reserved in accordance with the provisions of section 34;*
- ii) constitute an expert committee with representation of persons with benchmark disabilities for identification of such posts; and*
- iii) undertake periodic review of the identified posts at an interval not exceeding three years.*

45. It is true that in 2010, Rule 10 dealing with Reservation of Appointments, extracted below, provided for, or rather, identified only the post of Civil Judge (Junior Division) for the benefit of reservation in PwD category. The Rule, as it stood then, reads as follows:

10. Reservation of Appointments.— Rules 21(b) and 22 of the General Rules for the Tamil Nadu State and Subordinate Service relating to reservation of appointment shall apply to the selection for appointment to the posts of District Judge

¹⁶Foot Note Supra (7)



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(Entry Level) and Civil Judge (Junior Division) by direct recruitment

(2) Candidates with the following disabilities, namely, blind deaf/orthopaedically handicapped can seek for recruitment for the post of Civil Judge (Junior Division):

(I) 3 percent of the vacancies in the post of Civil Judge (Junior Division) in direct recruitment has to be filled by physically handicapped, namely, blind deaf/orthopaedically handicapped. In the event of only one vacancy, the rule of reservation for physically handicapped shall not apply:

Provided that the candidate must produce a certificate from the Medical Board to the effect that the disability will not affect the performance of the Job, namely Civil Judge (Junior Division) before appointment.

46. It is only in 2023 that Rule 10 was amended to include District Judge (Entry level) for reservation for PwD category. However, in light of the law laid down in the case of *National Federation of the Blind*¹⁷, it is no longer open to the respondents to adopt selective identification of posts, thereby limiting the constitutional mandate for reservation.

47. Learned counsel appearing for the respondents really have no defence, or any scientific basis to justify the exclusion of District Judge (Entry level) from the ambit of PwD reservation till 2023. The fact that Rule 10 was amended only in 2023 thus does not support or advance the case of the Respondents as necessary action in this regard ought to have been taken by the

¹⁷ Foot Note Supra (7)



Respondents in a timely fashion, post the pronouncement of the Supreme Court in 2013. There is no explanation for the delay of 10 years in bring the Rules up-to-speed with the Constitutional mandate.

48. The Supreme Court in the judgment in *National Federation of the Blind*¹⁸ has specifically deprecated the attempt to truncate reservation under PwD category and have cautioned against abusing the language of Section 33 which provides for *identification*, as a tool to exclude persons with disabilities from their constitutional and fundamental right to reservation.

49. The position today, is thus unambiguous to the effect that the reservation provided in the category of PwD is to be strictly implemented across the board and the mere fact that the State had omitted to identify District Judge (Entry level) as a post for provision or reservation in Rule 10, cannot be used as a tool to exclude the petitioner from the benefit of the same.

50. This is all the more for the reason that this Court, in the 2011 decision, had specifically directed R3 to ensure that necessary provision for PwD was made in the next recruitment. That decision had become final and R3 has not challenged the same, despite which the violation was perpetrated and

¹⁸ Foot Note Supra (7)



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the 2013 selection came and was finalised, in utter contempt of the Court's direction.

51. This Writ Petition is, hence, liable to be allowed on the question of law raised by the petitioner, and as a result, impugned Notification dated 01.05.2013 is found to be bad in law, both for not having provided for reservation for the category of PwD, and contravening the specific direction of this Court under order dated 11.03.2011.

52. We hasten to add that the appointments made under the 2013 Notification remain untrammelled and undisturbed. The District Judges appointed under that Notification have been in service since January, 2014, and we do not intend to upset their position in 2026, after a gap of 12 years, that too, for no fault of theirs. However, there is a way out for the State, both to implement the directions under order dated 11.03.2011, as well as to make amends.

53. The provision for reservation would entail selection of one physically challenged person with statutory benchmark disabilities, out of every 33 persons. 12 persons have been selected in the 2010 selection and 23 persons in the 2013 selection, and a total of 45 appointments have been made. As a result,



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there ought to have been as on date, one post of District Judge (Entry level) filled in by a person with disability.

54. Hence, in the ensuing selection, as and when that may transpire, in addition to the reservation to be provided in that selection, there shall be an additional post ear-marked for a person with benchmark disability, to provide for the omission on that account, in the 2010 and 2013 selections.

55. As far as the present petitioner is concerned, his success in this matter is only psychological, as he is over the age limit for appointment in the District Judiciary as on date, and hence cannot pursue his aspiration for appointment as a District Judge.

56. Though in the order passed on 11.03.2011, the Bench has mandated the State to provide for the reservation under PwD category in the subsequent Notification, the direction has simply been ignored by the respondents and amounts to contempt of this Court's order. As a means of recompense and to avoid further proceedings for contempt, the respondents will jointly pay a sum of Rs.5,00,000/- (Rupees five lakhs only) to the petitioner within a period of four (4) weeks from date of receipt of this order.



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57. This Writ Petition is allowed on the question of law with the direction as above. No costs. Connected Miscellaneous Petitions are closed.

(A.S.M.,J.) (M.S.K.,J.)

10-02-2026

Index: Yes

Speaking order

Neutral Citation: Yes

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To

1. The Chief Secretary to Government,
Government of Tamil Nadu, Secretariat Chennai.
2. The Secretary to Government
Government of Tamilnadu, Public (Special A) Department, Secretariat,
Chennai.
3. The Registrar General,
Madras High Court, Chennai- 600 104.



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DR.ANITA SUMANTH J.
AND
MUMMINENI SUDHEER KUMAR J.

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AND
WMP(MD) NOs. 1, 2 and 3 OF 2013

10-02-2026