



2026:DHC:1488-DB



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IN THE HIGH COURT OF DELHI AT NEW DELHI

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Judgment reserved on: 13.02.2026

Judgment pronounced on: 20.02.2026

Judgment uploaded on: 20.02.2026

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W.P.(C) 64/2017

PAWAN KUMAR

.....Petitioner

Through: Mr. Rakesh Kumar Singh, Mr.
Ashok Anand, Mr. Deepak
Kumar Singh and Mr. Bipin
Bihari Singh, Advs.

versus

UNION OF INDIA & ORS.

.....Respondents

Through: Mr. Rohan Jaitley, CGSC with
Mr. Varun Pratap Singh, Mr.
Dev Pratap Shahi and Mr.
Yogya Bhatia, Advs. for UOI.
SI Prashant Malik for the State.

CORAM:

HON'BLE MR. JUSTICE ANIL KSHETARPAL

HON'BLE MR. JUSTICE AMIT MAHAJAN

J U D G M E N T

ANIL KSHETARPAL, J.:

1. The Petitioner has filed the present Writ Petition assailing the order dated 31.05.2016 [hereinafter referred to as 'Impugned Order'] passed by the Central Administrative Tribunal, Principal Bench, New Delhi [hereinafter referred to as 'Tribunal'] in O.A. No. 225/2013, whereby his Original Application came to be dismissed.

2. In order to appreciate the issues which arise for consideration in the present case, the relevant facts may briefly be noticed.

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3. Pursuant to the Recruitment Notice of the Union Public Service Commission Civil Services Examination, 2009, the Petitioner participated in the selection process and, upon being declared successful, was placed at Rank 860 in the general merit list and at Rank 5 in the sub-category of Visually Impaired candidates. On the basis of the said selection, he was allocated to and appointed in the Armed Forces Headquarters Service.

4. The Petitioner's case is that subsequent to his appointment, the decision of the Supreme Court in ***Government of India v. Ravi Prakash Gupta***¹ clarified that reservation for persons with disabilities is not dependent upon prior identification of posts and that backlog vacancies are required to be computed from the date of enforcement of the Disabilities Act, 1995. Placing reliance thereon, the Petitioner claimed consideration against vacancies in the disabled category in the Civil Services.

5. The Petitioner initially instituted O.A. No. 4026/2010 seeking allocation to a service higher in his preference. The said Original Application was disposed of by the Tribunal vide order dated 15.02.2011 with a direction to the Respondents to consider his candidature for the Indian Administrative Service (IAS) and other services in accordance with his preferences. Pursuant thereto, the Petitioner was re-allocated to the Indian Postal Service on 09.01.2012, which he joined. After a lapse of nearly one year, the Petitioner instituted a second Original Application, being O.A. No. 225/2013,

¹ 2010 (7) SCC 626



seeking directions to the Respondents for his appointment against 1% vacancies earmarked for visually impaired candidates in the alleged backlog vacancies. The said Original Application came to be dismissed by the Tribunal *vide* Order dated 31.05.2016. Relevant findings in Paragraphs 13 and 14 are extracted as under:

“13. The backlog vacancies are required to be carried forward only for two years. Normally the selections are to be confined to the vacancies notified. All the Government Departments and Ministries are legally bound to implement the provisions of the Disabilities Act, 1995, including the provisions of Section 33 of the Act which provides for reserving the posts for the PH candidates. The Act also provides mechanism for enforcement of the rights of PH persons. It stipulates appointment of Chief Commissioner and Commissioners, empowers them amply to enforce the rights of such persons (Sections 57-63 of the Act). The proceedings before these Commissioners are to be judicial proceedings. Hence, it can be safely assumed that no Ministry/Department can dare violate the provisions of the Act.

*14. The respondents have clearly stated-in their replies that no backlog vacancies are available in IAS or IFS for accommodating the applicant, which gets further fortified from the fact that the backlog vacancies cannot be carried forward for more than two years. Taking all these factors into consideration and also bearing in mind the ratio laid down by the Hon'ble Supreme Court in **Ravi Prakash Gupta** (supra), we are of the clear view that the prayers of the applicant in this OA cannot be considered and that too at this belated stage.”*

6. Aggrieved thereby, the Petitioner has filed the present Writ Petition, which remained pending for a considerable period. As per the affidavit of the Petitioner, as sworn in November 2016, the Petitioner was about 37 years of age at that time and is presently more than 46 years old.

7. On 10.01.2017, this Court, while issuing notice, recorded that another candidate belonging to the disabled category, namely Ashish Singh Thakur, who had initially been allocated the Indian Postal Service and was subsequently offered the Indian Foreign Service, had



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not joined the said service and was pursuing his claim for the Indian Administrative Service before the Tribunal. In that context, the Court observed that the Petitioner, having accepted and joined the Indian Postal Service without demur, could not claim appointment to the Indian Foreign Service against the vacancy earlier held by the said candidate. The Court, however, took note of the Petitioner's contention that one Yashwant G.V., who had been offered the Indian Foreign Service under the disabled candidate category, was later found not to be entitled to the benefit of the Disabilities Act and that the Tribunal had not examined the Petitioner's claim for allocation against the vacancy arising therefrom. Notice was accordingly issued, though interim relief was declined.

8. In response, the Union of India filed written statement explaining the adjustment of vacancies occupied by Sh. Yashwant G.V. in *paras 2 to 6*, which are extracted as under:

"2. That the medical examination of Shri Yeshwanth G.V. was conducted by Central Standing Medical Board (CSMB) at Safdarjung Hospital and he had been declared as having 30% visual disability. The medical examination by Appellate Medical Board was conducted at RML Hospital, New Delhi and the findings of the Appellate Medical Board were the same i.e. 30% visual disability and thus he was not found to be a valid visually impaired candidate. Since Shri Yeshwanth was found to be a non-PwD candidate as per findings of CSMB and AMB, the matter was referred to UPSC for comments/inputs regarding availing of relaxation for scribe, extra time and extra attempts which are available to PwD candidates only. Meanwhile, one General non-PwD vacancy was kept blocked in Indian Foreign Services (IFS) as per his rank and availability of non-PwD vacancies in UR category.

3. That later on, UPSC, vide letter dated 23.03.2010, informed this Department that Shri Yeshwanth had availed extra time available for VI category candidates. Therefore, he could not be treated as a Non-PwD candidate and his candidature for allocation to a service on the

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basis of CSE-2009 [both against PwD and non-PwD vacancy] was cancelled.

4. That eventually, Shri Yeshwanth G.V. was allocated to IAS in compliance with Hon'ble CAT, Bangalore Bench's order dated 12.12.2013 in TA No. 470/2013 and further upheld by Hon'ble High Court of Karnataka vide its order dated 17.12.2014 in WP No. 44696/2014 and Hon'ble Supreme Court of India vide its order dated 13.09.2018 in SLP No. 1018/2015, by creating a supernumerary post under VI sub- category of PwD category for CSE- 2009.

5. That the Ministry of External Affairs (MEA), the Cadre Controlling Authority for IFS, had indented 30 vacancies (15- UR, 10-OBC, 4-SC, 1-ST, including 1-HI) for CSE-2009. No vacancy was earmarked for VI sub-category candidate for CSE-2009 in IFS. Against these vacancies, 29 candidates (14- UR, 10-OBC, 4-SC, 1-ST, including 1-HI) were allocated to IFS on the basis of CSE-2009 and one General non-PwD vacancy in IFS, which was blocked for Shri Yeshwanth G.V., could not be allocated to any candidate on the basis of CSE- 2009.

6. That MEA, vide its email dated 20.04.2023, has informed that 25 candidates joined out of 29 allocated candidates on the basis of CSE-2009 and 5 vacancies (4-UR + 1-ST) could not be filled up through CSE-2009. Subsequently, backlog 5 vacancies (4-UR+1-ST) from CSE-2009 were added in CSE- 2011 and allocated to eligible candidates of CSE-2011. Accordingly, one General Non-PwD vacancy, which was kept blocked for Sh. Yeshwanth G.V., was also filled up."

8.1 It was stated that Yashwant G.V. was found to have 30% visual disability by both the Central Standing Medical Board and the Appellate Medical Board and was therefore not eligible to be treated as a visually impaired candidate. Since he had availed concessions admissible exclusively to such candidates, the matter having referred to the UPSC, the UPSC opined that he could not be treated as a non-PwD candidate either, resulting in cancellation of his candidature for allocation on the basis of CSE-2009.

8.2 It was also stated that he was subsequently allocated to the Indian Administrative Service against a supernumerary post created pursuant to orders of the Central Administrative Tribunal, Bangalore



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Bench, as affirmed by the High Court of Karnataka and the Supreme Court. The Ministry of External Affairs had not earmarked any vacancy for the visually impaired sub-category in the Indian Foreign Service for CSE-2009. One general vacancy, which had remained blocked on account of the said candidate, was carried forward and stood filled in CSE-2011. The Respondents thus assert that no vacancy in the Indian Foreign Service referable to CSE-2009 is available for allocation to the Petitioner.

9. We have heard learned counsel for the parties at length and with their able assistance, perused the material on record.

10. Learned counsel representing the Petitioner submits that the vacancy in the Indian Foreign Service, which had initially been kept blocked on account of Yashwant G.V., ought to have been allocated to him once the said candidate was found ineligible to be treated as a visually impaired candidate and was subsequently accommodated in the Indian Administrative Service against a supernumerary post. It is contended that denial of such consideration is arbitrary and contrary to the benefit of reservation available to candidates in the PH category.

11. *Per contra*, learned counsel for the Respondents submits that no vacancy in the Indian Foreign Service referable to CSE-2009 is presently available. It is pointed out that the vacancy which had become available on account of Yashwant G.V. was carried forward and stood filled in UPSC Civil Service Examination – 2011 as stated in paragraph 06 of the written statement dated 02.04.2024, and



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therefore, no direction for allocation to the Petitioner can now be issued.

12. Having considered the rival submissions and the material placed on record, this Court finds that the foundational premise of the Petitioner's claim, namely the availability of a vacancy in the visually impaired sub-category in the Indian Foreign Service for Civil Services Examination, 2009, is not borne out. The record indicates that no vacancy was earmarked for the visually impaired sub-category in PH Vacancies in the Indian Foreign Service for the said examination year.

13. The vacancy which had remained blocked on account of Yashwant G.V. was not a reserved vacancy for the visually impaired sub-category and, in any event, stood carried forward and already filled in the subsequent cycle of Civil Services Examination, 2011. In the absence of a demonstrable reserved vacancy in the concerned service and recruitment year, no enforceable right to allocation can arise, and the concept of carry-forward of backlog cannot be invoked in the abstract so as to claim allotment dehors the notified vacancy position. This factual position has not been demonstrated to be incorrect.

14. It is also to be noted that the Petitioner accepted his allocation to the Indian Postal Service (IPoS) and joined the said service without demur. The challenge to non-allocation to a service higher in preference was raised only thereafter.

15. The Petitioner has remained a member of the IPoS for over fourteen years. The present Writ Petition itself has remained pending



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for a considerable period, and the Petitioner is now over forty-six years of age. At this stage, any direction for reallocation to another service would unsettle a long-standing position and inevitably impinge upon the rights of other candidates who are serving in their respective allotted services, and have not been impleaded as a party in this Writ Petition.

16. The exercise of extraordinary jurisdiction under Article 226 of the Constitution is governed by principles of equity. The Petitioner's long-standing acquiescence in his current service, coupled with the absence of a demonstrable reserved vacancy in the IFS for the recruitment year CSE-2009, precludes the grant of any discretionary relief. We find no jurisdictional error or patent illegality in the Impugned Order passed by the Tribunal

17. In view of the foregoing discussion, no ground is made out for interference with the Impugned Order. The Writ Petition is, accordingly, dismissed.

ANIL KSHETARPAL, J.

AMIT MAHAJAN, J.

FEBRUARY 20, 2026

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