



सत्यमेव जयते

न्यायालय मुख्य आयुक्त विकलांगजन  
COURT OF CHIEF COMMISSIONER FOR PERSONS WITH DISABILITIES  
विकलांगजन सशक्तिकरण विभाग / Department of Empowerment of Persons with Disabilities  
सामाजिक न्याय और अधिकारिता मंत्रालय / Ministry of Social Justice and Empowerment  
भारत सरकार / Government of India

Case No.6462/1011/2016

Dated: 21<sup>st</sup> August, 2017

In the matter of :

Shri Pratik Hanmant Nikam,  
C5, Premraj Residency,  
Anand Nagar, Old Sangvi  
Pune – 411 027 (Maharashtra)

R3092

... Complainant

Versus

Ministry of Defence (Navy)  
(Through: Secretary)  
Integrated Headquarters,  
Room No. 101,D-II Wing,  
Sena Bhawan, New Delhi-110011

R3093

... Respondent

Date of hearing: 19.01.2017, 03.03.2017, 20.04.2017 & 19.05.2017

Present on 19.01.2017

1. Complainant – not present
2. Shri P.S.R. Narasimham, Director and Shri T. Hussain, Admin. Officer-I – On behalf of Respondent.

Present on 03.03.2017

1. Prof. (Dr. Anil K. Aneja, Vice President, AICB, on behalf of the Complainant.
2. Shri T. Hussain, Administrative Officer, on behalf of the Respondent.

Present on 20.04.2017

1. Prof. Anil K. Aneja on behalf of the complainant.
2. Shri T. Hussain, Administrative Officer, on behalf of the Respondent.
3. Shri P.S.R. Narasimham, Director (G) on behalf of the Respondent.

Present on 19.05.2017

1. Prof. Anil K. Aneja on behalf of the complainant.
2. Respondent absent.

**ORDER**

Shri Pratik Hanmant Nikam, complainant with 40% visual impairment had forwarded complaint through e-mail dated 23.05.2016 to this Court of Chief Commissioner for Persons with Disabilities regarding reserving the post of Assistant Naval Stores Officer for visually impaired persons.

2. The matter was taken up with the Secretary, Ministry of Defence (Navy), Integrated Headquarters, New Delhi under Section 59 of the Persons with Disabilities (Equal Opportunities, Protection of Rights & Full Participation) Act, 1995 asking them to submit their comments in the matter.

3. Ministry of Defence (Navy), Integrated Headquarters vide letter dated 19.10.2016 submitted their comments on the complaint of the complainant. Subsequently, the complainant vide his email dated 31.10.2016 also submitted his rejoinder/reply thereupon.

4. On considering the comments of the respondent and the rejoinder/reply of the complainant, a hearing was held on 19.01.2017. During the hearing, the representatives on behalf of the respondent submitted that all the Engineering Examinations conducted by UPSC for all posts of Group A are not earmarked for VH persons. It is identified for other categories. They further stated that as per DoP&T O.M. No. 36035/3/2004-Estt(Res) dated 29.12.2005, 3% posts are to be filled by persons with disabilities. In compliance of Judgment dated 08.10.2013 of Hon'ble Supreme Court of India in Civil Appeal No. 9096 of 2013 arising out of SLP (Civil No. 7541 of 2009) titled Union of India & Anr. Vs. National Federation of the Blind & Ors., the Department of Personnel & Training vide O.M. No. 36012/24/2009-Estt.(Res) dated 03.12.2013 has modified para 14 of its O.M. No. 36035/3/2004-Estt(Res) dated 29.12.2005 to the effect that "Reservation for persons with disabilities in Group 'A' or Group 'B' posts shall be computed on the basis of total number of vacancies occurring in direct recruitment quota in all the Group 'A' posts or Group 'B' posts respectively in the cadre". Department of Personnel & Training further in compliance of the directions of the Hon'ble High Court of Delhi passed on 17.07.2014 in Civil Miscellaneous Appeal No. 230/2014 vide its O.M. No. 36035/4/2013.Estt(Res) dated 06/07.01.2015 has amended para 15(i) of the said O.M. No. 36035/3/2004-Estt(Res) dated 29.12.2005 to the extent that "Reservation for persons with disabilities in Group 'A' or Group 'B' posts shall be computed on the basis of total number of vacancies occurring in direct recruitment quota in all the Group 'A' posts or Group 'B' posts respectively in the cadre". Separate roster for Group 'A' posts and Group 'B' posts in the establishment shall be maintained.

5. As the complainant could not attend the hearing, he was given one more chance to present his case and the matter was scheduled for hearing on 03.03.2017.

6. During the hearing on 03.03.2017, the representative of the complainant reiterated the written submissions of the complainant and submitted that the indents of vacancies to be filled by the Indian Naval Armament Service are raised by the recruitment controlling authority of the said service itself to UPSC. Therefore, Indian Naval Armament Service is itself responsible for not identifying the posts of Assistant Manager, Assistant Professor and Assistant Naval Store Officer for persons with low vision. This is despite the fact that these posts and/or similar posts identified in the list of identification post issued by the Ministry of Social Justice and Empowerment, Government of India vide Notification dated 29.07.2013 on Group 'A' at Serial Nos. 872, 530, 531, 532, 533, 788, 789 and 790. He further submitted that Para 4 of DoP&T O.M. dated 29.12.2005 clearly stated that no Department or Ministry can on its own exclude any posts from the purview of identification and reservation once the same has been identified by the Ministry of Social Justice and Empowerment. The Indian Naval Armament Service by not identifying the above posts for reservation for persons with low vision has violated Para 4 of DoP&T O.M. dated 29.12.2005 and thus, also has denied the right of persons with low vision to appear as general candidates as per the provisions of Para 6 of the said DoP&T O.M.

7. It was further submitted by the representative of the complainant that a large number of vacancies are advertised by Indian Naval Armament Service and as no reservation appears to have been provided for persons with low vision since 01.01.1996, there would be a large backlog which the Respondents may be asked to fill in the terms of judgment of the Hon'ble Supreme Court of India in Civil Appeal No. 9096 of 2013 arising out of SLP (Civil) 7541 of 2009 dated 08<sup>th</sup> October, 2013. Towards this end, the respondents may be asked to submit the rosters and the copies of the indents sent to UPSC. They should be further directed to calculate the backlog in respect of persons with low vision from 01.01.1996 and till the same in future recruitments with any delay or demur.

8. During the hearing on 03.03.2017, the representative of the respondent submitted that recruitment for INAS and ANSO is conducted by UPSC through Engineering Service Examination (ESE) and Railway Board is a Nodal Authority. The provisions of persons with disabilities, blind and low vision are not there in Engineering Examination Service. Even if they indent, then recruitment cannot be done through ESE. However, 3% reservation for PwDs is ensured and the persons with low vision and the blind exist against other category of all posts, such as Professors Cadre. DRDO's Store Officer is a Group B post and the same is different than the ANSO or INAS. The Store Officer of Railway also is the similar provision of Engineering Service Examination. As they are giving reservation to all categories of PwDs even out of 18 posts identified recently to UPSC of Translation Officers Russian, English, one post has been reserved for PwD with partially blind.

9. The Court, after hearing the parties, directed the respondent to submit the following and also re-scheduled the case for next date of hearing on 20.04.2017:-

- (i) Copy of Indents sent to Railway Board (Nodal Authority) for conducting Engineering Service Examination.
- (ii) Copy of Reservation Roster with effect from 01.01.1996.
- (iii) Details of vacancies filled in Group 'A' since 01.01.1996.
- (iv) Apart from the above, the Respondent is also advised to submit the copy of exemption, if granted by the Ministry of Social Justice and Empowerment.

10. During the hearing on 20.04.2017, the representatives of the complainant and the respondent were present. The representatives of the respondent sought 15 days' time to file reply and submit the documents which were asked by this Court vide Record of Proceedings dated 03.03.2017. The Court granted the time to the respondent and directed the respondent to file the reply by 05<sup>th</sup> May, 2017 before the Court and to the complainant without waiting for the Record of Proceedings. The complainant was advised to file his rejoinder thereof by 19<sup>th</sup> May, 2017. The matter was adjourned for next date of hearing on 19.05.2017.

11. During the hearing on 19.05.2017, the representative of the complainant was present but none was present on behalf of the respondent.

12. As directed by the Court vide para 10 referred above, the respondent submitted their reply dated 05.05.2017 to this Court, with a copy to the complainant. The respondent has refuted all the averments made by the representative of the complainant during the hearing on 03.03.2017 by giving point-wise reply. They have also submitted the desired documents which were asked by this Court vide para 9 above. The respondent further submitted that during consultation with Railway Board, who is the nodal authority for conducting ESE, has opined that as the post of Store Officer

was not identified by Ministry of Social Justice and Empowerment in its Notification dated 29.07.2013, the requirement of seeking exemption did not arise.

13. The Court had directed the complainant vide para 10 above, to submit its rejoinder on the reply of the respondent, by 19.05.2017. The complainant has not submitted his rejoinder and it appears that he has no comments to offer in this regard.

14. The Court, after going through the records, observed that there is no violation of any provision of the Persons with Disabilities Act, 1995 and the matter is accordingly disposed off.



**(Dr. Kamlesh Kumar Pandey)**  
Chief Commissioner  
for Persons with Disabilities