

**In the Court of State Commissioner for Persons with Disabilities  
National Capital Territory of Delhi  
25- D, Mata Sundari Road, Near Guru Nanak Eye Centre, New Delhi-2  
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[Vested with powers of Civil Court under the  
Rights of Persons with Disabilities Act, 2016]

**1. Case No. 773/1011/2019/03/5471**

**Dated:17.09.2019**

In the matter of:

SUO-MOTU

**Versus**

**The Chairman,**  
New Delhi Municipal Council,  
Palika Kendra Parliament Street,  
New Delhi-110001.

.....Respondent

**Final date of hearing:** 04.09.2019

**Present:** Sh. Hari Singh, Dy. Director (Estt.) alongwith Sh. Vikram Tyagi for respondent, New Delhi Municipal Council.

**ORDER**

Section 33 of the erstwhile Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 provided for reservation of 1% vacancies for persons with blindness/low-vision, 1% for locomotor disability and Cerebral Palsy and 1% for hearing impairment. After the said Act was repealed with the coming into force of the Rights of Persons with Disabilities Act, 2016 (RPwD Act) on 19.04.2017, not less than 4% of the total number of vacancies are to be reserved for persons with benchmark disabilities under Section 34 of the said Act. Now, the 4% reserved vacancies are

to be distributed among more categories of specified benchmark disabilities as provided in Section 34 of the Act.

2. Department of Personnel & Training vide their OM No. 36035/3/2004-Estt(Res) dated 29.12.2005 and OM No. 36035/02/2017-Estt(Res) dated 15.01.2018 prescribed the procedure for effecting reservation and computing the reserved vacancies etc. at the rate of 3% and 4% respectively.

3. As per Department of Personnel & Training OM No. 36012/39/2014-Estt (Res.) dated 22-25<sup>th</sup> May, 2015 and the directions of Hon'ble Supreme Court of India, a special recruitment drive for filling up backlog of reserved vacancies was to be conducted by the concerned Departments.

4. Vide letter No. 5/1593/2017-Wel/CD/155-316 dated 05.05.2017, all the Pr. Secretaries/Spl. Secretaries/Addl. Secretaries/HoDs, Govt. of NCT of Delhi and the Corporations were requested to provide by 31.05.2017, the information relating to appointment of persons with disabilities against reserved vacancies in a prescribed format in respect of their Departments and all the establishments such as Offices/Organisations/Institutions etc. under their control. The format, among other things, sought the information about the number of total vacancies filled since 1996, the number of persons with locomotor disability, visual impairment and hearing impairment out of the total, the backlog of reserved vacancies, and whether separate 100-point vacancy based roster for persons with disabilities was being maintained or not in respect of Group-A, Group-B, Group-C and Group-D posts.

5. It was also brought to the notice of the respondents that the Contempt Petition No. 499/2014 in Civil Appeal no. 9096/2013 in the matter of National Federation of Blind had also been filed in the Hon'ble Supreme Court with regard to computing and filling up the backlog of

reserved vacancies. Further, the information provided to Ministry of Home Affairs in respect of GNCT of Delhi and other offices was not correct and the details were not as per the proforma. It was requested that special recruitment drive to fill the backlog of reserved vacancies be organised without any loss of time if already not done within a specified time frame.

6. Suo-Motu cognizance of the matter was taken and a common show-cause notice was issued to the respondent alongwith the Commissioner North DMC, Commissioner South DMC, Commissioner East DMC, Commissioner NDMC vide show-cause-cum hearing notice dated 07.03.2019 and a hearing was also scheduled on 04.04.2019.

7. During the hearing on 04.04.2019, Sh. Satpal, S.O. submitted that the issue regarding continuation of Group-D posts in NDMC had been referred to Ministry of Home Affairs. Therefore, it was not possible to submit complete information. He also submitted a table including **backlog of 69 vacancies for VI, 63 vacancies for HI and 44 vacancies for locomotor disability in Group-A, Group-B, Group-C and Group-D posts as in September, 2015.** NDMC was directed to submit the latest information based on 100-points vacancies based reservation rosters in respect of Group-A, B and C posts if the decision about the Group-D posts was not taken by the next date of hearing on 07.05.2019.

8. The following information was submitted vide letter dated 06.05.2019:

S r. N o .	Classification of post (whether belongs to Class I, II, III or IV or to Group A,B, C or D)	Total Sanctio ned Strengt h	Numbe r of Person s in positio n	Total Numbe r of vacanc ies existin g	No. of vacan cies filled since 1996	Number of employees with disabilities out of column 6	Backlog of reserved vacancie s	Whether separate 100 point roster meant for PwDs is being maintain ed	Current Cycle and the number of points of current 100 point roster utilized so far

1	2	3	4	5	6	7			8	9	10
						OH	VH	HH			
1	Group A/ Class I vacancies filled by direct recruitment	180	76	104	45	2	0	0	01 (VH)	Yes	1 <sup>st</sup> Cycle and 45 points
2	Group B/ Class II vacancies filled by direct recruitment	1118	644	474	140	2	1	2	01 (VH)	Yes	2 <sup>nd</sup> Cycle and 40 points
3	Group C/ Class III vacancies filled by direct recruitment	1970	498	1225	1247	10	8	1	03 (OH)	Yes	13 <sup>th</sup> Cycle and 47 points
									05 (VH)		
									11 (HH)		
4	Group C/ Class III vacancies filled by promotion	3174	1800	1115	4438	29	13	14	16 (OH)	Yes	45 <sup>th</sup> Cycle and 38 points
									32 (VH)		
									30 (HH)		
5	Group D/ Class IV vacancies filled by direct recruitment	-	-	-	-	-	-	-	-	-	-
6	Group D/ Class IV vacancies filled by promotion	-	-	-	-	-	-	-	-	-	-

9. On 07.05.2019, Sh. Pankaj Sharma, Joint Director (Estt.) stated that they were in the process of preparing reservation rosters and sought one month to complete the exercise. As per the circular of Department of Social Welfare, GNCT of Delhi, they have also constituted a committee to identify suitable posts for persons with benchmark disabilities under Section 33 of the Act. The committee is expected to identify the posts by August or September, 2019 and action to conduct special recruitment drive would also be taken with the approval of higher authorities.

10. It was pointed out that the list of identified posts is already available in respect of persons with (a) blindness and low vision (b) hearing impairment and (c) locomotor disability including cerebral palsy. The appropriate governments are now required to identify posts for persons with autism spectrum disorder, intellectual disability, specific

learning disabilities, mental illness and multiple disabilities besides specifying the posts separately for persons with deafness and hard of hearing, leprosy cured, dwarfism, acid attack victims and muscular dystrophy. It was therefore possible to initiate action for conducting special recruitment drive to fill the backlog of reserved vacancies under the provision of PwD Act, 1995 in the posts already identified. Reservations against the vacancies that arose after 2016 for persons with other benchmark disabilities for whom the posts are yet to be identified, could be filled once the exercise of identification was completed. NDMC was therefore advised to initiate action to conduct special recruitment drive for filling up the backlog reserved vacancies immediately after the reservation rosters are finalised and submit the details of erstwhile Group 'D' posts so that the number of backlog of reserved vacancies is known and the reservation rosters.

11. On 24.06.2019, the representatives NDMC submitted that the data had been collected from different departments and comparison is being done. It would take about 20 days more to prepare the rosters and to initiate action for conducting special recruitment drive and intimate the backlog of reserved vacancies in Group-D posts as directed vide R.O.P dated 09.05.2019.

12. On the next date of hearing on 05.08.2019, the representatives of NDMC produced the original rosters for Group-A and Group-B posts. As per the said rosters, 45 vacancies were filled in Group-A from 1997 (there was no recruitment in 1996) to 12.03.2019. Two persons with locomotor disability, namely Dr. R.P. Mittal and Dr. Sandeep Kaushik, were appointed. As per their understanding, the first appointment should have been of a person with visual impairment and the next one of a person with hearing impairment. It was clarified that the order in which the disabilities appear in Section 33 of the Person with Disabilities Act, 1995 or Section 34 of Rights of Persons with Disabilities Act, 2016

is merely their placement in alphabetical order. The reservation or appointments need not be in that order. Therefore, one of the persons with locomotor disability is to be considered against point No. 1 of the roster and the next available vacancy in an identified post is to be reserved for the next reserved point for persons with blindness or low vision or hearing impairment depending upon various factors such as the category of disability for which the post in which vacancy arises, is identified.

13. In Group-B posts, 140 vacancies have been filled from 1996 to 10.08.2017. Out of them 1 VI, 2 HI and 2 locomotor disability (L.D.) have been appointed leaving a backlog of 1 VI. They submitted that requisition for filling up **1 backlog vacancy in Group-B post would be sent to DSSSB within a month.**

14. NDMC filled up 1247 vacancies in Group-C posts. Out of them 10 were persons with locomotor disability, 8 VI and 1 HI, leaving a **backlog of 3 vacancies of L.D., 5 of VI and 11 of HI (Total: 19).**

15. In Group-D posts, 4650 vacancies were filled. Out of them, 11 L.D., 1 VI and 2 HI were appointed. Thus, there is a **backlog of 36 vacancies of L.D., 46 VI and 44 HI (Total: 126).**

16. The representatives of NDMC stated that a clarification from MHA whether single roster for **Group-D** as well as Group-C posts should be maintained, was yet to be received. Since the recruitment to Group-C posts has to be done through DSSSB, they have to wait for the clarification from MHA to initiate action to fill the backlog of reserved vacancies in Group-D posts. As NDMC had already computed the backlog, it was recommended that action to fill the backlog of reserved vacancies for persons with benchmark disabilities in Group-C posts should be initiated by **09.09.2019.**

17. On 04.09.2019, Sh. Hari Singh, Dy. Director and Sh. Vikram Tyagi, Senior Assistant submitted that one backlog reserved vacancy for persons with blindness/low vision in **Group 'A'** Post will be filled up against future vacancies as there was no vacancy. As regards **Group-B** posts, on rechecking the record, they found that 01 vacancy of Assistant Law Officer, had already been reserved for persons with disabilities and was advertised by DSSSB alongwith other posts on 20.10.2015. DSSSB has not yet recommended any candidate so far. NDMC has sent a reminder to DSSSB on 16.07.2019.

18. It is however observed that neither the advertisement no. 01/15 for vacancy notice dated 20.10.2015 nor the reminder letter dated 16.07.2019 of NDMC indicates the category of disability such as locomotor/Cerebral Palsy, blindness/low vision or hearing impairment for which the vacancy of Assistant Law Officer is reserved. The advertisement also does not mention the category(ies) of disability for which the post is identified to enable the eligible persons with disabilities to apply.

19. With regard to **Group-C** posts, they submitted that it has been decided to get the approval of Chairman, NDMC when a regular incumbent takes over as the issue relating to reservation of EWS candidates is also to be decided. It is observed that the backlog of 19 vacancies (3 for locomotor disability, 5 for visual impairment and 11 for hearing impairment) has already been computed and it has nothing to do with reservation for EWS category.

20. Upon considering the action taken by NDMC and the status of progress made, this case is delinked for disposal by a separate order. Accordingly, the following recommendations are made:

(i) the first available vacancy in an identified **Group-A** post be reserved for persons with blindness/low vision. The name, address and

contact details of the person appointed against the reserved vacancy be intimated to this court within 15 days of joining of the person selected.

(ii) DSSSB be requested to either re-advertise the post of Assistant Law Officer, a **Group-B** post or issue a corrigendum to invite applications from eligible persons with blindness or low vision and fill the vacancy in a time bound manner. The matter should be taken with DSSSB at the highest level in NDMC. Name, address and contact details of the person appointed against the reserved vacancy be intimated to this court within 15 days of joining of the person selected.

(iii) The requisition for filling up the backlog of 19 vacancies (3 for locomotor disability, 5 for visual impairment and 11 for hearing impairment) in the existing **Group-C** posts be sent to DSSSB within 10 days of receipt of this order and filled up within 3 months from the date of receipt of this order by conducting special recruitment drive.

(iv) As regards, the decision about the **Group-D** posts, which have to be treated as **Group-C** posts, the clarification from MHA should be obtained on top priority. During the course of hearing, I spoke to the concerned officer in MHA, who said that recruitment can be done by either NDMC or DSSSB. The representation of NDMC was advised to meet the officer with a letter. If necessary, Ministry of Home Affairs may be requested at appropriate level for a clarification and the same be obtained by 20.09.2019. Any delay in this regard shall perpetuate deprivation of the rights and entitlements of a large number of persons with disabilities under the erstwhile Persons with Disability Act, 1995 and the Rights of Persons with Disabilities Act, 2016. This will also be disobedience of the order of Hon'ble Supreme Court, if the Special Recruitment Drive for filling up backlog of reserved vacancies is not conducted expeditiously. In my view, NDMC should obtain the names of eligible persons from the Special Employment Exchange/ Employment



Exchange and also advertise the vacancies in the employment News and fill them up as DSSSB has not been able to fill the vacancies for which advertisement was issued in 2015 as per the respondent. Chairman, NDMC is therefore advised to initiate action in right earnest to fill up **126 backlog reserved vacancies (36 locomotor disability, 46 visual impairment and 44 hearing impairment)** by appointment of persons with benchmark disabilities within 3 months from the date of receipt of this order.

21. This court be informed about the action taken on the above recommendations within 3 months from the date of receipt of this order as required under Section 81 of the Act.

22. The case is disposed off.

23. Given under my hand and the seal of the Court this 17<sup>th</sup> day of September, 2019.

**(T.D. Dhariyal)**  
**State Commissioner for Persons with Disabilities**