

**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]

**Case No. 876/1011/2019/04/6019**

**Dated:20.09.2019**

In the matter of:

**SUO-MOTU**

Versus

**The Secretary,**  
Services Department,  
Govt. of NCT of Delhi.  
7<sup>th</sup> Level, Delhi Secretariat,  
I.P. Estate, New Delhi-110002.

..... Respondent

**Date of Hearing : 09.09.2019**

**Present:** Sh. C. Uday Kumar, Special Secretary (Services), Sh. Bhairab Dutt, Dy. Secretary (Services), Sh. Hemant Yadav, SO and Sh. Jaswant Singh, SO on behalf of respondent.

**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 After the said Act was repealed with the coming into force of the Rights of Persons with Disabilities Act, 2016 (RPwD Act) on 19.04.2017, not less than 4% of the total number of vacancies are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 organized without any loss of time if already not done within a specified time frame.

6. The Services Department vide letter dated 28.08.2017 provided the information in respect of Grade II (DASS)/HC, Grade III (DASS)/UDC, Grade IV (DASS)/LDC and Grade III (Stenographer) for which that Department is Cadre Controlling Authority. The Department was advised to depute the concerned officers alongwith vacancy-based roster on 03.06.2019 vide letter dated 01.05.2019.

7. During the hearing on 03.06.2019, the representative of the Department submitted letter dated 31.05.2019, which contains the status of requisition sent to DSSSB for filling up the available vacant posts of Grade III Stenographer and Grade IV (DASS) in respect of advertisement no. 02/14 post code 211/14, Adv. No. 02/18 post code 21/18 in respect of Stenographer and Adv. no. 1/17 post code 02/17 and Adv. No. 02/18 post Code 20/18 in respect of Grade IV (DASS). However, it did not indicate the total number of vacancies filled since 1996 and the number of persons with disabilities appointed.

8. The representatives of the Department clarified that in the year 1998, a special recruitment drive was conducted for appointment of persons with visual impairment and around 40 persons with visual impairment were appointed. They also added that a very few persons with hearing impairment apply and are finally appointed.

9. They were informed about the provision for interchange of the vacancies with other categories of disabilities in the event of unavailability of the category for which the vacancies were originally earmarked. Further, for the purpose of computing the reserved vacancies for persons with disabilities, single vacancy based roster registers for direct recruitment and another for promotion for Group 'C' posts need to be maintained as per the instructions of DoPT. Therefore while they may provide the details in respect of Grade-IV (DASS), Grade-II (DASS) and Stenographer, Grade-III posts, a consolidated information indicating the total number of the vacancies filled in Group 'C' posts by direct recruitment since 1996 and the number of persons with disabilities appointed out of those vacancies so that backlog of reserved vacancies can be determined for conducting special recruitment drive.

10. The appointment to Group 'A' & 'B' posts are made by MHA for various Departments to which Services Department is concerned. As there are many ex-cadre posts for which different Department/ organizations, PSUs, Autonomous Bodies are the Cadre Controlling Authorities, the respondent was also requested vide letter dated 30.08.2019 to intimate the names of the Department which are Cadre Controlling Authorities in respect of various ex-cadre Group A , Group B and Group C posts.

11. Deputy Secretary (Services III) vide letter dated 06.09.2019 informed that backlog vacancies in respect of Grade II (DASS), Grade IV (DASS) has been sent to DSSSB vide letter dated 08.07.2019 and 31.08.2019 for inclusion in the next requisition. The details of the vacancies filled in Grade II (DASS), Grade IV (DASS) and Grade III Stenographer indicating the number of vacancies filled since 1996 and

the number of persons with locomotor disabilities, visual impairment and hearing impairment has also been given.

12. On 09.09.2019, Sh. C. Uday Kumar, Special Secretary (Services), Sh. Bhairav Dutt, Deputy Secretary (Services), Sh. Hemant Yadav, SO (Services III) and Sh. Jaswinder Singh, SO (Services II) appeared and stated that recruitment to various posts in Group C for which Services Department is responsible, is done at different points of time and therefore it is practically and administratively more feasible to maintain separate rosters in respect of Grade II (DASS), Grade IV (DASS) and Grade III Stenographer which have large number of sanctioned posts.

13. During the hearing, provisions of DoPT's instructions issued vide OM dated 15.01.2018 and Section 33 & Section 36 of Persons with Disabilities Act, 1995 and Section 34 of the Rights of Persons with Disabilities Act, 2016 regarding carry forward of reserved vacancies, interchange among the other categories of disabilities and filling up of the vacancies by appointment of persons other than persons with disabilities were discussed in details. It was also considered that a separate 100point vacancy based reservation roster for computing the reserved vacancies for persons with disabilities before 2017 under the PwD Act, 1995 and with effect from 2017 under the RPwD Act, 2016 needed to be maintained in each Group maintaining separate 100 point vacancy based reservation rosters for Grade II (DASS), Grade IV (DASS) and Grade III Stenographer (all Group C posts) for computing the reserved vacancies for persons with disabilities would not be disadvantageous to persons with disabilities as substantial number of vacancies arise in each posts every year and all the four group of disabilities will get reserved vacancies with one or two recruitment years. It was agreed that Services Department may maintain three

separate rosters strictly in accordance with the instructions issued by DoPT.

14. After the discussions, it was decided that the Department will work out the exact number of backlog reserved vacancies for persons with disabilities and intimate by 11 September, 2019. They will also make necessary modifications as per the provisions of the Act in the requisitions which were sent to DSSSB for filling up 9 reserved vacancies (6 for VI and 3 for HI) of Grade II (DASS) vide letter dated 08.07.2019 and 50 back log reserved vacancies (32 for HI and 18 for VI) in Grade IV DASS vide letter dated 31.08.2019 computed on the basis of the number of vacancies filled since 1996 as indicated in annexure "A" to their email dated 06.09.2019. They will also submit the names of Department which are Cadre Controlling Authorities in respect of the ex-cadre posts as sought by this Court vide letter dated 30.08.2019.

15 Vide email dated 15.09.2019, Services Department has submitted the following details:

S. No.	Classification of post (Whether belongs to Class I, II, III or IV or to Group A, B, C or D)	No. of vacancies filled since 1996	Roster Points			Number of Roster point filled			Backlog vacancy			Backlog vacancies sent to DSSSB for filling up the posts.		
1	2	3	4			5			6			7		
	Group C Posts		OH	VH	HH	OH	VH	HH	OH	VH	HH	OH	VH	HH
1	Grade-II (DASS)	883	9	9	9	9	6	5	0	3	4	0	6	3
2	Grade-IV (DASS)	4630	46	46	46	42	53	3	4	-7	43	0	18	32
3	Grade-III (Stenographer)	334	3	3	3	1	6	0	2	-3	3	4	7	1
Total		5642	58	58	58	52	65	8	6	-7	50	4	31	36

16. On perusal of the above details, it is observed that 139 vacancies should be reserved for persons with disabilities in Grade IV (DASS) instead of 138 as point no. 1 of the 41<sup>st</sup> cycle would also be reserved. It is also observed that only 32 backlog vacancies have been sent to DSSSB for filling up as against 43. Therefore, requisition for 11 more vacancies to be filled by persons with HI should be sent. In Grade III (Stenographer), against 334 vacancies filled, 11 vacancies should be reserved for persons with disabilities instead of 9 as indicated in the above table.

17. In view of the above, it is recommended that the Services Department should revise the requisition for filling up:

- i) 4 vacancies for HI instead of 03 in Grade II (DASS);
- ii) 4 vacancies for locomotor disability and 43 instead of 32 for HI in Grade IV (DASS);
- iii) 3 backlog vacancies for HI instead of 1 in Grade III (Stenographer);
- iv) The recruitment process should be completed within three months from the date of receipt of this order; and
- v) Names and addresses of the persons with disabilities appointed against the reserved vacancies be intimated to this Court within 15 days of their joining.

18. The matter is disposed of.

19. Given under my hand and the seal of the Court this 20<sup>th</sup> day of September, 2019.

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