

**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-110002

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[Vested with powers of Civil Court under the
Rights of Persons with Disabilities Act, 2016]

Case No.2370/1016/2021/09/2006-09

Dated:12/10/21

In the matter of:

Advocate Meena Kadian,
D/o Sh. Kirpal Singh,
RZ-74, B-Block, Netaji Lane,
Near Surakhpur Road,
Gopal Nagar, Najafgarh,
New Delhi-110043.
(Email: meena.kadian@live.com)

.....**Complainant**

Versus

The Pr. Secretary,
Department of Home,
Govt. of NCT of Delhi,
5th Level, 'C' Wing,
Delhi Secretariat, I.P Estate,
New Delhi-110002.

.....**Respondent**

Case No.2371/1016/2021/09

In the matter of:

Sh. Surya Joshi,
H.No. 9527, Pocket C-9,
Vasant Kunj,
New Delhi-110070.

.....**Complainant**

Versus

The Pr. Secretary,
Department of Home,
Govt. of NCT of Delhi,
5th Level, 'C' Wing,
Delhi Secretariat, I.P Estate,
New Delhi-110002.

.....**Respondent**

Date of Hearing: 11.10.2021

Present: Advocate Meena Kadian, Complainant on telephone
Sh. Surya Joshi, Complainant
Sh. L.K. Gautam, Deputy Secretary alongwith Sh. Aditya Trehan, APP on behalf of Respondent (in both cases)

ORDER

Advocate Meena Kadian, a person with 100% locomotor disability filed a complaint dated 28.01.2021 and Sh. Surya Joshi, a person with 40% Specific Learning Disability filed another complaint dated 29.01.2021, both received from the Court of Chief Commissioner for Persons with Disabilities vide letters dated 20.09.2021 and 16.09.2021 respectively, under the Rights of Persons with Disabilities, Act 2016, hereinafter referred to as the Act. The complainants alleged that Department of Home, GNCT of Delhi had forwarded a requisition for filling up of 80 vacancies of Assistant Public Prosecutor (APP), which was advertised by UPSC vide Advertisement No. 2-2021 (Vacancy No. 21010211223). However, UPSC has ignored the Benchmark Disability i.e. Both Leg & Specific Learning Disability (SLD) respectively in the said vacancy.

2. Both the matters were taken up with the respondent vide show cause-cum-hearing notice dated 24.09.2021. As the subject matter in both the cases is similar, a common hearing was scheduled on 11.10.2021.

3. During the hearing, complainants reiterated their submissions. Respondent department vide their submission dated 11.10.2021 submitted that Ministry of Social Justice & Empowerment (Department of Empowerment of Persons with Disabilities), GOI, issued the gazette notification on 04.01.2021 notifying the amended eligibility for the post of APP in Central Government by adding new category of disability MF in functional requirement and SLD in suitable category of benchmark disabilities in addition to the earlier eligibility categories. Whereas

Home Department submitted the proposal for recruitment of 80 Posts of APP vide letter dated 05.10.2020 which was advertised by UPSC vide Advertisement No. 02/2021 dated 23.01.2021.

4. It was also submitted that a Committee was constituted vide order dated 19.02.2019 for identifying the post of APP in the Directorate of Prosecution. The Committee after considering all the relevant factors relating to the role and responsibilities of APPs of GNCT of Delhi identified the following categories (a) blindness and low vision (b) hard of hearing (with not less than 60% with assistive device) (c) locomotor disability (OA, OL) including leprosy cured, dwarfism and acid attack victims (d) Multiple disabilities from amongst persons (a) to (c).

5. Further, It was informed that the matter was referred to Law Department and Services Department, GNCT of Delhi and it was advised that “the appropriate Government in case of Government of National Capital Territory of Delhi is different than the Appropriate Government in case of Central Government. The Expert Committee constituted by this Government has independently identified the PH requirement for the post of APP in Directorate of Prosecution, Delhi. The above position show that the advertisement issued in case of APP in Directorate of Prosecution, Delhi should be in conformity in the policy decision taken by the Appropriate Government of NCT of Delhi.”

6. Complainants informed the Court that they have appeared in the examination held for this post. Respondent department informed that meeting of the Competent Committee is scheduled on 13.10.2021 for considering suitability of PwD Candidates for recruitment to the post of APP, GNCT of Delhi, as per Gazette Notification dated 04.01.2021 issued by Department of Empowerment of Persons with Disabilities.

7. After due deliberations and discussions, taking due cognisance of submissions made by the complainant & the respondent, it is observed that the identification of posts by Department of Empowerment of Persons with Disabilities is valid for entire country and all organisations have to follow it. The respondent department should have taken exemption if there was any deviation from the notification issued by the Department of Empowerment of Persons with Disabilities. In view of the above, the case is disposed with the following recommendations:-

- (i) A corrigendum in respect of re-advertisement/re-examination be issued in respect of those PwD candidates whose categories are identified as per S.No.584 of the list of identified posts issued vide Notification No.38-16/2020-DD-III dated 04.01.2021 by Ministry of Social Justice & Empowerment, Govt. of India.
- (ii) The Respondent Department should place the matter in respect of both the complainants and other similarly placed PwD candidates before the competent Committee constituted for the purpose of identification of posts of APP whose meeting has been scheduled on 13.10.2021 regarding their re-appearance for the examination and take decision accordingly.

8. This court be informed of the action taken by the respondent within 3 months from the date of receipt of this order as required under Section 81 of RPwD Act, 2016.

9. Given under my hand and the seal of the Court this 12th day of October, 2021.

(Ranjan Mukherjee)
State Commissioner for Persons with Disabilities