

(2025) 10 DEL CK 1314

In the Delhi High Court

Case No : Writ Petition (C) No. 68 Of 2025, Civil Miscellaneous Application Nos. 237, 17984, 33105, 33109 Of 2025

Deepak Arora And Anr

APPELLANT

Vs

Airport Authority Of India

RESPONDENT

Date of Decision : 16-10-2025

Acts Referred:

Constitution of India, 1950 — Article 226
Rights Of Persons With Disabilities Act, 2016 — Section 33, 34(1), 33(i), 33(2), 34
Madhya Pradesh Judicial Service Examination (Recruitment and Conditions of Service) Rules, 1994 — Rule 6A

Citation : (2025) 10 DEL CK 1314

Hon'ble Judges : C.Hari Shankar, J;Ajay Digpaul, J

Bench : Division Bench

Advocate : S.K. Rungta, Prashant Singh, Digvijay Rai, Archit Mishra, Subhash Kumar, Priyanka Rana, Yatinder Choudhary, Jayesh Bhargava, Nidhi Raman, Akash Mishra, Arnav Mittal

Final Decision : Partly Allowed

Judgement

C. Hari Shankar, J

WP (C) 938/2025 [Mudit Gupta v Airports Authority of India & others]

1. Said Lady Smart, from Jonathan Swift's "Polite Conversation in Three Dialogues", penned early in the 18th century – "There's none so blind as they that won't see".

2. We, in this batch of cases, are faced with the question – Can the blind see?

3. Law, however, has a habit of complicating the simplest of issues.

4. We have, in the pantheon of Counsel in our Court, lawyers such as Mr. Rungta, who argued these matters with characteristic poise and composure, and Mr. Rahul Bajaj, who have triumphantly breached the boundary between blindness and vision. We have often wondered, after observing them at their best, whether

they are not more accomplished than many of their more "able-bodied" colleagues. Vision – or the lack of it – has certainly not stood in their way.

5. With that brief preface, we may turn to the facts.

6. Advertisement 03/2023 and Department of Empowerment of Persons with Disabilities "DEPWD" Notification dated 4 January 2021

6.1 Advertisement 03/2023 was issued by the Airports Authority of India "AAI", inviting applications for various posts. Among them was the post of Junior Executive (Law) "JE (Law)", to which the petitioner aspires. The Post Code assigned to the post of JE (Law) was "06". The Advertisement also contained a Table identifying posts which were suitable for persons with benchmark disabilities "PwBD", within the meaning of the Rights of Persons with Disabilities Act, 2016 "the RPWD Act". To the extent the Table applied to the post of JE (Law), it provided thus:

Post Code

Functional Requirements

Suitable categories of Benchmark Disabilities

A

B

C

D

E

06

S, ST, W, BN,

RW, SE, H, C, MF

B, LV

D, HH

OA, BA, OL, BL,

OAL, CP, LC, Dw, AAV, SD/SI without any associated neurological/limb dysfunction (SD/SI with associated neurological limb dysfunction shall be covered under respective category of OA, BA, OL, OAL)

ASD, SLD, MI

MD

Involving categories

(A) to

(D)

The various letters used in the above Table refer to various categories of disabilities or functional attributes. For our purpose, suffice it to note that "B", "LV" and "S" were used for "Blind", "Low Vision" and "Seeing" respectively.

[The letters "A" to "E" were used to identify the number of vacancies which are allocated against each category of disability. For the post of JE (Law), the Advertisement allocated two vacancies under Category "A" and one vacancy under category "C". No vacancies were allocated under Categories B, D or E. In other words, two vacancies were reserved for persons who are blind or suffered from low vision, and one vacancy was reserved for persons suffering from the disabilities envisaged in the above Table under Category C. We are not, in this case, concerned with Category C.]

6.2 Prior to the above advertisement, DEPWD had, in exercise of the powers conferred by Section 33 [33. Identification of posts for reservation.—The appropriate Government shall— (i) identify posts in the establishments which can be held by respective category of persons with benchmark disabilities in respect of the vacancies reserved in accordance with the provisions of Section 34; (ii) constitute an expert committee with representation of persons with benchmark disabilities for identification of such posts; and (iii) undertake periodic review of the identified posts at an interval not exceeding three years.] of the RPWD Act, issued Notification dated 4 January 2021, identifying Groups A, B, C, and D posts which could be reserved for persons with benchmark disabilities. These were provided in a tabular form in Annexure C to the Notification. At Serial Nos. 324 and 1194 in the said Table figured the posts of Legal Assistant, in Groups B and C. The entries in that regard read as under:

Sl No

Designation

Functional Requirements

Suitable category of Benchmark

Disabilities

Nature of work performed

Working Conditions/ Remarks

324

Legal Assistant

S, ST,
W, BN,
RW, SE,
H, C, MF

- a)
- b)
- c)
- d)
- e)

B, LV

D, HH

OA, BA,

OL, BL, OAL, BL, BLA, BLOA, CP, LC, Dw, AAV

ASD (M), SLD, MI MD

Involving

(a) to (d) above

They study facts, available documents or papers pertaining to legal aspect of different issue raised by various Government Departments and give opinions and advice to the

Government if

necessary. May

scrutinise and advice on legal aspects of

Government rules

and regulations etc.

May prepare and

file legal

proceeding complaints,

complaints, legal

statement,

affidavits etc, in

civil and criminal
courts of law,
advice Government
department to
procure evidence
and documents etc
in support of
particular case.

May prepare
witness appearing
on behalf of
Government. May
appear in the court
of law to plead the
Government case.
May prepare briefs
for the senior
lawyers. Will assist
the officers for the
above work.

The work is mostly performed inside. The workplace is well lighted. Incumbent should be considered with appropriate software , aids and appliances support as per the needs.

1194

Legal Assistant

S, ST,

W, SE,

H, C, MF

a)

b)

c)

d)

e)

B, LV HH

OA, BA,

OL, BL, OAL, CP, LC, Dw, AAV, MDy

SLD, MI MD

involving

(a) to (d) above

Assists Solicitors and Advocate in their work by collecting documents from clients, organisers on in which employed, studying details of cases, preparing briefs, supplying relevant decisions or similar cases and laws connected, etc. In support of pleadings. Interviews clients, discusses case history and collect documents pertaining to case, if any. Examines witnesses and discusses case with senior (Solicitor or advocate). Studies relevant case laws, prepares briefs for

pleading as instructed and files case in court. Assists Advocate in preparing witnesses for evidence and cross examination, and in conducting case.

The work is mostly performed inside in well lighted rooms. The worker usually works alone. The incumbent should be considered with aids and appliances.

Notes 1, 2, 7 and 8, in the aforesaid Notification, read thus:

"Note 1: Persons with benchmark disabilities require aids and assistive devices to overcome the difficulties. The aids and assistive devices may be provided to persons with benchmark disabilities on their appointment keeping in view their requirement as per the instructions of DOPT issued from time to time.

Note 2: The list of posts being notified is only indicative and not an exhaustive list. If a post is not mentioned in the list, it is not to be construed that it has been exempted. Ministries, Departments, Autonomous Bodies, Public Sector Undertakings may further supplement the list by adding to the list of posts identified for respective category of disability.

Note 7: In case of posts identified suitable for more than one sub- category under the broad category, individual Ministries or Departments or Public Sector Undertakings or Autonomous Bodies should conduct recruitment for all the sub-categories and cannot suo moto choose one particular sub-category for appointment.

Note 8: It is for the Central Ministries or Departments or public Sector Undertakings or Autonomous Bodies to verify the authenticity of the certificate of disability and examine suitability of the candidate in terms of functional requirements before appointment against any identified post.”

7. Facts relating to the petitioner

7.1 The petitioner is blind. He applied for recruitment to the post of JE (Law), pursuant to Advertisement 03/2023. In his application, he disclosed the fact that he was blind.

7.2 Consequent on his application, the petitioner underwent the Computer Based Test "CBT", forming the initial part of the selection process for the post of JE (Law) on 21 October 2023. He was provisionally selected, as per the result of the CBT, which was declared on 23 November 2023.

7.3 The petitioner thereafter participated in the exercise of document verification. At this stage, the respondent issued an e-mail to the petitioner on 24 May 2024, informing him that his selection for the post of JE (Law) was withheld for confirming whether he met the functional requirements stipulated for the post in the Advertisement. In the Final Result which came, thereafter, to be published on 24 May 2024, the name of the petitioner did not figure in the list of candidates selected for the post of JE (Law).

7.4 On 16 October 2024, the petitioner was issued a further e-mail by the respondent, paras 1 to 3 of which merit reproduction:

“1. Reference is made to trailing mail with regard to your withheld selection for the post of Junior Executive (Law).

2. Please note that “Reading & Writing” and “Seeing” are one of the functional Requirements for the post of Junior Executive (Law) as specified under the heading “Posts Identified Suitable for Persons with Benchmark Disability (PwBD)” of Advt No. 03/2023.

3. “Form for Assessing Functional Requirements” submitted by you certified that you cannot perform work by “Reading & Writing” and “Seeing”. As you do not meet two of the Functional Requirements, you are prima facie ineligible for selection to the post of Junior Executive (Law).”

The communication, however, granted the petitioner a further opportunity to reassess his Functional Requirements, on the date and time stipulated therein.

7.5 The reassessment took place on 22 October 2024. Consequent thereon, the petitioner was issued another e-mail dated 13 December 2024, which informed him that the Medical Report following his reassessment once again certified that he could not perform work by seeing. As “seeing” was one of the Functional Requirements stipulated for the post of JE (Law) in the Advertisement, the petitioner’s candidature was cancelled. The e-mail invoked Note 8 of the Notification dated 4 January 2021 supra.

7.6 Aggrieved by the rejection of his candidature, the petitioner has instituted the present writ petition before this Court, seeking quashing of the decision to cancel his candidature as well as Note 8 in the Notification dated 4 January 2021 *supra*.

8. Pleadings in the writ petition have been completed. We have heard Mr. Rungta, learned Senior Counsel for the petitioner, Mr. Digvijay Rai, learned SC for the AAI and Mr. Vinay Yadav, learned SPC, for the UOI.

Rival Contentions

9. Submissions of Mr. Rungta

9.1 Mr. Rungta submits that, once the post of JE (Law) was identified as suitable for blind candidates as well as candidates suffering from low vision, both in the Notification dated 4 January 2021 as well as in the Advertisement, there could be no justification for excluding, from the said post, blind candidates.

9.2 Mr. Rungta points out that the very purpose of identification of posts, as envisaged by Section 33(i) of the RPWD Act, presumes that persons with the categories of identified disabilities are capable of holding the identified posts. Identification of posts, he points out, is a detailed and involved exercise, undertaken by the Committee constituted for the said purpose, following the procedure stipulated in Section 33(2). The Notification dated 4 January 2021 also clearly states that the identification of posts, for various categories of disabilities, therein, was consequent on the said statutory exercise having been undertaken by the duly constituted Committee. The posts of Junior Assistant (Law) – which was the same as the post of JE (Law) to which the petitioner aspires – was identified as suitable for candidates who were blind, or who had low vision, keeping in view the functional requirements of the post, which included “seeing”. It was for this purpose, submits Mr. Rungta, that the Notification specifically provided that suitability had to be assessed with the aid of assistive devices. If, with the aid of assistive devices, the petitioner was in a position to “see”, he could not be regarded as ineligible for appointment as JE (Law). He submits that, with the passage of time, several innovative assistive devices are available, even in the form of software, using which persons who are completely blind are able to function to optimum capacity and are even working on computers. He lays especial stress, in this context, on Note 1 in the DEPWD Notification dated 4 January 2021, which emphasises use of aids and assistive devices so that persons with benchmark disabilities could overcome their difficulties. The same Rule also envisages providing of such aids and assistive devices to persons with benchmark disabilities on their appointment, in accordance with the instructions issued by the DOPT. As such, he submits that excluding the blind from appointment would militate against the very intent and purpose of Note 1.

9.3 Mr. Rungta further submits that the Respondents could not have ousted the petitioner from appointment on the basis of the opinion of the doctor. He places reliance, in this context, on Clause 12 of Office Memorandum “OM” dated 15

January 2018 issued by the DOPT under the RPWD Act, which reads:

"12. MEDICAL EXAMINATION:

As per Rule 10 of the Fundamental Rules, every new entrant to Government Service on initial appointment is required to produce a medical certificate of fitness issued by a competent authority. In case of medical examination of a person with benchmark disabilities for appointment to a post identified as suitable to be held by a person suffering from a particular kind of disability, the concerned Medical Officer or Board shall be informed beforehand that the post is identified suitable to be held by persons with benchmark disabilities of the relevant category and the candidate shall then be examined medically keeping this fact in view."

Thus, submits Mr. Rungta, the purpose of a medical examination can only be to identify whether the candidate is suffering from any other ailment and not to arrive at an assessment regarding his disability.

9.4 Mr. Rungta submits that, as it is a truism that the blind candidates cannot see, if the concept of sight is to be understood as the respondents would seek to understand it, it would make a mockery of the entire concept of reservation envisaged in Sections 33 and 34 of the RPWD Act. The fate of blind candidates, who are otherwise identified as suitable for the post of JE (Law) would become dependent on the doctor's certification. If the doctor certifies that the blind candidate can see, he would be appointed; else, he would be rejected. Mr. Rungta submits that such a consequence is completely inimical to the RPWD Act. Mr. Rungta further submits that Note 8 to the DEPWD OM dated 4 January 2021 is not intended to empower the Respondent to ascertain the suitability of a candidate belonging to an identified category of disability for appointment through a medical assessment. In fact, the Union of India has, in para 3 of its counter-affidavit, under the head "Preliminary Submissions", itself contended that this interpretation, as adopted by the AAI, is a misconstruction of Note 8. If Note 8 were to be so construed, it would be rendered ultra vires Sections 33 and 34 of the RPWD Act and, consequently, illegal. He emphasises that, once a post is declared as identified for candidates who suffer from a particular category of disability, in accordance with Section 33 of the RPWD Act, candidates who possess that disability cannot be denied appointment to post falling under on the basis of further medical assessment with respect to functional suitability. Functional requirements are taken into consideration by the committee constituted under Section 33 of the RPWD Act, before identifying posts as capable of being filled by candidates who have one or other disabilities. He relies, for his submissions, on the judgements of the Supreme Court in paras 25 and 26 of *Government of India v Ravi Prakash Gupta* (2010) 7 SCC 626, paras 31 to 33 of *Union of India v National Federation of the Blind* (2013) 10 SCC 772, *Vikash Kumar v UPSC* (2021) 5 SCC 370 and paras 23, 26 to 30, 34 and 41 to 44 of the judgement of the Division Bench of this Court in *National Federation of the Blind v Kendriya Vidyalaya Sangathan* MANU/DE/7042/2023.

9.5 To support his submission, Mr. Rungta places reliance on paras 4, 41 and 42 of the judgement of the Supreme Court in *In re. Recruitment of Visually Impaired in Judicial Services 2025 SCC OnLine SC 481*, in which, he submits, the Supreme Court had declared Rule 6(A) of the Madhya Pradesh Judicial Service Examination (Recruitment and Conditions of Service) Rules, 1994 "the 1994 MP Rules", as well as the action taken thereunder, illegal.

9.6 Mr. Rungta submits that there is, in fact, no post, advertised in the Advertisement under consideration, for which "seeing" is not stipulated as a functional requirement. If, therefore, the interpretation adopted by the respondents is to be upheld, he submits that blind candidates would be completely excluded from consideration under the Advertisement.

10. Submissions of Mr. Digvijay Rai, for AAI

10.1 Mr. Rai, responding to Mr. Rungta's submissions, asserts that the AAI has proceeded on the basis of medical opinion. If the doctor who inspects the candidate certifies that the candidate is in a position to see, the AAI has not denied the candidate appointment on the ground of blindness. He relates, in this context, on paras 5, 6 to 8, 12 and 13 of the short affidavit filed by the DEPWD in WP (C) 61/2025, which is also being decided by the present judgment, which read thus:

"5. The post of Junior Executive (Common Cadre) is not specifically listed in this Department's notification dated 04.01.2021. However, all Junior Executive posts under the Administration/Finance/Project, etc. category in the principal list are identified as suitable for the Blind and low vision having functional requirement of "seeing".

6. Note 8 of the notification dated 04.01.2021 provides that:

It is for the Central Ministries or Departments or Public Sector Undertakings or Autonomous Bodies to... examine suitability of the candidate in terms of functional requirements before appointment against any identified post. This provision stipulates that the functional requirements are to be assessed by the medical board constituted by the employer through empanelled hospitals.

7. Reading this with Note 1 of DEPwD notification dated 04.01.2021, clarifies that persons with benchmark disabilities require aids and assistive devices to overcome their difficulties. The aids and assistive devices may be provided to persons with benchmark disabilities on their appointment, keeping in view their requirement, as per the instructions of DoPT issued from time to time. Thus, suitability of the candidate in terms of functional requirements may also be assessed with relevant aids and assistive devices.

8. It is further submitted that the working condition of both the above posts mentions as under:

"....Incumbent should be considered with appropriate software, aids & appliances

support as per needs."

12. It is to further submit that, the Department has issued Advisory cum Standard Operating Procedure (SoP) to address cases of PwDs aggrieved with the decision of Medical Board Constituted by Government Employers (GEs) or Government Institutions of Higher Education (GIHE) and Other Higher Education Institutions (OHEI) aided by Government regarding medical examinations before appointment/ admission to GIHE.

Copy of Standard Operating Procedure dated 17.09.2024 is annexed herewith as Annexure R-2.

This SoP aims to standardize the appeal process, ensure compliance with DEPWD guidelines, and provide a clear pathway for PwDs to challenge unfavourable medical board decisions.

13. As per DoPT OM dated 15.01.2018, in case of medical examination of a person with benchmark disabilities for appointment to a post identified as suitable to be held by a person suffering from a particular kind of disability, the Boncerned Medical Officer or Board shall be informed beforehand that the pos is identified suitable to be held by persons with benchmark disabilities of the relevant category and the candidate shall then be examined medically keeping this fact in view."

The action of the AAI, he further submits, is entirely in accordance with Para 12 of the DOPT OM dated 15 January 2018 supra.

10.2 Mr. Rai further relies on the DEPWD Notification dated 4 January 2021 and on Note 8 therein. He submits that Note 8 is not illegal for any reason. He has also taken us through the documents relating to the reference of the candidates for medical assessment to the VMMC & Safdarjung Hospital, to submit that the Hospital assessed the suitability of all candidates with reference to the functional requirement of "seeing".

10.3 Mr. Rai further submits that, having participated in the entire selection process in full awareness of the fact that "seeing" was an essential functional requirement for recruitment as JE (Law), the petitioner could not object against the rejection of his candidature, in dissonance with the admitted position that he cannot see. Even otherwise, he submits that a candidate, who is aware of his disqualification and nonetheless participates in the selection process cannot, on failing to get selected, challenge the stipulation itself. He relies, for this purpose, on paras 24 to 28 of Vijendra Kumar Verma v Public Service Commission (2011) 1 SCC 150 and paras 33 and 37 of Ravi Kumar v Department of Space 316 (2025) DLT 531.

10.4 In support of his submissions, Mr. Rai further relies on paras 17, 24, 27, 28(a) and (b) and 29 of Anmol v Union of India 2025 SCC OnLine SC 387,

rendered by the Supreme Court, paras 22 to 25 and 31 of the judgement of the Division Bench of this Court in Rathod Anil v Union of India 2023 SCC OnLine Del 8114, Para 10 of Satyendra Kumar v UOI 2024 SCC OnLine Del 9529 and various paras from Pragati Kesharwani v Union of India 2024 SCC OnLine Del 7924, of a learned Single Judge of this Court.

10.5 In any event, submits Mr. Rai, the Advertisement issued by the AAI was in terms of the DEPWD Notification dated 4 January 2021, and the AAI has acted strictly in terms of the said Notification, particularly Note 8 therein. He submits that the assessment of whether a candidate is suitable to man a particular post, given the functional requirements of that post, is essentially a matter within the discretion of the appointing authority, under whose employment the candidate has to function. Mr. Rai submits that the Supreme Court was not, in *In re. Recruitment of Visually Impaired in Judicial Services*, concerned with the aspect of whether it was illegal to examine the functional suitability of a candidate for recruitment by medical examination. In that case, the Supreme Court observed that the opinion of the medical expert was driven by suspicion. There was no such allegation in the present case.

10.6 Mr. Rai submits that the principle of “reasonable accommodation” cannot be blindly applied. He reiterates his submission by pointing out that a person who is blind, or suffers from low vision, cannot seek appointment in a job which requires him to drive a car. Efficiency in performing the assigned functions of the post is also a cardinal consideration. Moreover, relief cannot be so granted to the petitioner as would require the entire Advertisement to be rewritten.

10.7 Apropos the assertion, in the counter-affidavit of the Union of India, that the AAI is misinterpreting Note 8 in the DEPWD Notification dated 4 January 2021, Mr. Rai submits that the affidavit is silent on the correct manner in which the Note is to be interpreted. He submits that the manner in which Mr. Rungta, or the Union of India, seeks to interpret Note 8, would render redundant the stipulation regarding functional requirements of individual posts, contained at several points in the Notification.

11. Submissions of Ms. Nidhi Raman, for the Union of India

Ms. Nidhi Raman, learned CGSC, appearing for the Union of India, submits that blindness is not incompatible with the ability to see. She relies, for this purpose, on paras 6, 9 and 15 of *Kabir Paharia v National Medical Commission* MANU/SC/0633/2025 and paras 19, 23 to 27, 33, 37 and 39 of *Om Rathod v Director General of Health Services* MANU/SC/1172/2024.

Analysis

12. Effect of identification of posts under Section 33 of the RPWD Act – Permissibility of stipulating “functional requirements” against identified posts, and its consequence

12.1 Section 34(1) [34. Reservation.— (1) Every appropriate Government shall

appoint in every Government establishment, not less than four per cent of the total number of vacancies in the cadre strength in each group of posts meant to be filled with persons with benchmark disabilities of which, one per cent each shall be reserved for persons with benchmark disabilities under clauses (a), (b) and (c) and one per cent for persons with benchmark disabilities under clauses (d) and (e), namely— (a) blindness and low vision; (b) deaf and hard of hearing; (c) locomotor disability including cerebral palsy, leprosy cured, dwarfism, acid attack victims and muscular dystrophy; (d) autism, intellectual disability, specific learning disability and mental illness; (e) multiple disabilities from amongst persons under clauses (a) to (d) including deaf-blindness in the posts identified for each disabilities:] of the RPWD Act requires at least 1% of the total number of vacancies in the cadre strength in each group of posts, meant to be filled with persons with benchmark disabilities, to be reserved for persons who are blind or suffer from low vision. Identification of posts which can be filled by persons with benchmark disabilities is to be undertaken in accordance with Section 33. Section 34(2) provides that if, in any particular recruitment year, it is not possible to fill up the prescribed percentage of vacancies reserved for PwBD, “due to nonavailability of a suitable person with benchmark disability or for any other sufficient reasons”, the unfilled vacancies can be carried forward to the succeeding recruitment year.

12.2 There is wealth of jurisprudence on the intricacies of, and interplay between, Sections 33 and 34. We need not venture into that arena in the present case, as there is no dispute about the fact that 1% of the vacancies in each identified post, in Advertisement 03/2023, stands reserved for candidates who are blind (B) or have low vision (LV).

12.3 There is no dispute about the fact that the DEPWD Notification dated 4 January 2021, as well as Advertisement 03/2023, identify blindness as well as low vision as disabilities which would qualify for recruitment to the post of JE (Law). The petitioner is blind. He, therefore, would, on the basis of the identification of vacancies in the Advertisement, or in the DEPWD Notification dated 4 January 2021, qualify for selection and appointment to the said post.

12.4 The hurdle in the path of the petitioner has been created by the further stipulation, in Advertisement 03/2023, as well as in DEPWD Notification dated 4 January 2021, that the candidate, in order to be eligible for appointment as JE (Law), has to satisfy the functional requirements separately identified therein. Among these, is “S”, i.e. the ability to see.

12.5 This throws up two issues for consideration, viz.

(i) whether the further stipulation of functional requirements, in order to enable or entitle a candidate who falls within the identified categories of disabilities for appointment to a particular post, is permissible and legal, and

(ii) assuming it is, whether the petitioner satisfies the said functional requirement.

12.6 The RPWD Act does not contain any provision which entitles the administration to stipulate “functional requirements” for posts which already stand identified as being suitable for being filled by persons possessing particular categories of disabilities.

12.7 That said, there can be no cavil with the proposition that every post has functional requirements. As Mr. Rai correctly submits, the post of a car driver would require the candidate to be able to see, in the gross physical sense. A person who is blind can obviously not be appointed as a car driver.

12.8 The question is the stage at which this restriction can be imposed. Ordinarily, it is clear that the restriction has to be imposed at the stage of identification of the posts which are suitable to be filled by candidates with particular disabilities, in terms of Section 33 of the RPWD Act. The Committee constituted under the said provision, if it feels that drivers must be able to see, cannot identify the post of a driver as one which can be filled by a blind person – or, indeed, even by a person with low vision. The controversy would, then, end there, as a blind candidate, or candidate with low vision, would not apply for recruitment as a driver.

12.9 If, however, therefore, the Committee identifies a particular post as one which can be filled by persons having a particular disability, it logically follows that the Committee has kept in mind the physical attributes of the candidates who possess that disability, and has consciously regarded them as suitable for performing the functions which the post entails.

12.10 Does that, then, completely divest the appropriate Government with the power to stipulate functional requirements for a post, which are additionally to be met before candidates, who possess the stipulated category/categories of disability, are entitled to be appointed thereagainst?

12.11 There is no proscription, in the RPWD Act, against stipulating functional requirements. We, in fact, are of the opinion that the stipulation of the suitable category of benchmark disability, and the functional requirements for a particular post cannot be dichotomised. The only requirement, in law, according to us, is that the stipulation of functional requirement has to take place at the stage of identification of the posts, by the statutory Committee under Section 33. The statutory Committee under Section 33, in undertaking the exercise of identification of posts, would, to our mind, be well within its authority in additionally stipulating functional requirements by candidates who are within the identified categories of disability. When this is done, the identification of the categories of disability, as well as the identification of the functional requirements of the post have, in our view, to be read together. It is not as though a sub-category is being created within the category of identified disabilities.

12.12 Thus, if one were to advert, for example, to the Group B post office Legal Assistant at S. No. 324 of the Table in Annexure C to the DEPWD Notification dated 4 January 2021, the Committee must be treated as having identified

persons possessing the benchmark disabilities stipulated in the fourth column of the Table, and possessing the functional requirements stipulated in the third column of the table, as suitable for appointment to the Group B post of Legal Assistant. In doing so, we do not feel that any breach of the mandate of Sections 33 or 34 of the RPWD Act, can be alleged to have taken place.

12.13 We cannot, therefore, subscribe to a submission that all persons who possess the stipulated disabilities in the fourth column of the Table annexed to Annexure C to the DEPWD Notification dated 4 January 2021 against any post, would, even if they did not possess the functional requirements envisaged in the third column of the said Table, be entitled to be appointed against the concerned post. They have, additionally, to satisfy the functional requirements envisaged in the third column of the Table.

12.14 Probably conscious of this position, there is, in fact, no challenge, in the present case, to the stipulation, either in the Table contained in Annexure C to the DEPWD Notification dated 4 January 2021, or in the corresponding table contained in Advertisement 03/2023, to the additional stipulation of "functional requirements", of the concerned posts, as contained therein.

12.15 We, therefore, hold that it was open to the DEPWD, in the Notification dated 4 January 2021, to stipulate functional requirements to be satisfied by candidates aspiring to the posts identified in the Table contained in Annexure C to the said Notification, and only candidates who satisfied the said functional requirements would be entitled to appointment against the corresponding posts.

12.16 In coming to this conclusion, we have borne in mind the fact that the stipulation, in the third column of the Table contained in Annexure C to the DEPWD Notification dated 4 January 2021, is also the outcome of an exercise undertaken by the Statutory Committee constituted in terms of Section 33 of the RPWD Act. The outcome of the said exercise has to be given due respect. We may pride ourselves in being a constitutional Court, but we are least equipped to comment on the functional requirements of various posts in the executive establishment. We cannot, by judicial fiat, thrust, on the executive, persons who are functionally unsuitable for a post, under the aegis of promoting the objectives of the RPWD Act. Carried to its logical extremes, any such misadventure might result in throwing the executive machinery into disarray, which could, in turn, result in serious and irreparable adverse consequences to public interest.

12.17 We clarify, here, that our findings hereinabove are in the context of functional requirements forming part of the stipulations following the exercise conducted by the Statutorily Committee under Section 33 of the RPWD Act. We are not addressing ourselves to the question of whether any particular executive establishment, or office, could, of its own accord, stipulate additional functional requirements, which find no place in the Notification issued by the DEPWD under Section 33 of the RPWD Act. We are not expressing any opinion in that regard.

13. The challenge to Note 8

13.1 Among the prayers in the writ petition is the prayer that Note 8, in the DEPWD Notification dated 4 January 2021, be declared unconstitutional. We see no reason to do so.

13.2 Once we have held that candidates who possess the identified categories of disability against any particular post would also have to satisfy the functional requirements of the post, it is apparent that the exercise of determination as to whether a particular candidate does, or does not, satisfy the functional requirement of the post, has to be left to the concerned selecting authority or establishment in which the candidate seeks appointment. Note 8 says no more.

13.3 The challenge to Note 8 in the DEPWD Notification dated 4 January 2021, therefore, must fail.

14. Application of Note 8 – Can the blind see?

14.1 The eye is a sense organ. It processes no power of cognition or discernment. It merely fulfils the function of recording of an image which is before it. The image is recorded on the retina, constituting the rear wall of the eye. That recorded image is then transmitted, through electrical signals, to the brain, via the optic nerve. The function of interpreting and understanding the image that was recorded on the retina is performed by the brain. The power of cognition, discernment and understanding, therefore, vests in the brain, not in the eye. Expressed otherwise, the function of sight, which we otherwise attribute to the eye, is in fact largely performed by the brain. The eye acts, at the highest, as a recorder and transmitter.

14.2 In assessing the satisfaction, or otherwise, of the “functional requirement of seeing”, therefore, this basic physiological reality has to be borne in mind by the respondents. The concept of “seeing”, inasmuch as it is stipulated, in the DEPWD Notification as well as in the Advertisement, as a functional attribute, cannot be restricted to the ocular functionality of the eye. If, therefore, despite not being possessed of the ocular ability which enables the recording of images on the retinal wall of the eye, a candidate is nonetheless able to perceive what is before him, to the extent it is necessary to discharge the function of JE (Law), he has to be regarded as being possessed of the functional attribute of “sight”, as envisaged and required by the DEPWD Notification and the Advertisement.

14.3 The assessment of the satisfaction, by the candidate who is blind, or suffers from low vision, of the functional requirement of “seeing”, vis-à-vis the suitability of the said candidate for appointment as JE (Law) has, therefore, to be expansive, and not myopic.

14.4 A stellar example of how it would be practically ludicrous to equate gross physical sight, in the form of a functional ocular organ, with functional suitability to discharge the duties of JE (Law), is to be found in the person of Mr. Rungta himself. This aspect is tellingly underscored, with reference to Mr. Rungta

himself, in para 65(iv) of the judgement of the Supreme Court in *In re. Recruitment of Visually Impaired in Judicial Services*, which reads:

"(iv) Senior Advocate S.K. Rungta of India, conferred with the prestigious title of Senior Advocate by the Delhi High Court in 2011, has dedicated his career to breaking down barriers for the differently-abled. Initially reliant on clerks for mobility and legal filings, he has substantially reduced this dependence with the advent of assistive technology. While he encountered skepticism from some judges regarding his capabilities, he asserts that the judiciary has largely been supportive. His contributions have been instrumental from facilitating entry of the blind to into the civil services to enforcing disability reservations under Indian law, securing the right of blind individuals to serve as witnesses, and shaping India's disability legislation- The Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995."

If the manner in which the Respondents have interpreted, and applied, Note 8 in the DEPWD Notification dated 4 January 2021, is to be accepted, Mr. Rungta, a Senior Counsel of eminence, would not be eligible to be appointed as JE (Law). The proposition, to say the least, is ridiculous in the extreme.

14.5 Mr. Rungta sought to contend that the AAI could not have, by subjecting the petitioner to a medical examination, disqualified him from recruitment as JE (Law). He relies, for this purpose, on paras 41 and 42 of *In re. Recruitment of Visually Impaired in Judicial Services*, and we find the reliance to be well taken. The Supreme Court has, in the said passages, clearly held that the suitability, capacity and capability of a person with disability, to function in a particular post, is not to be tested and measured by medical or clinical assessment, but has to be assessed after providing reasonable accommodation and an enabling atmosphere:

"41. The spirit of the RPwD Act, 2016 would reveal that the principle of reasonable accommodation is a concept that not only relates to affording equal opportunity to the PwD but also it goes further as to ensuring the dignity of the individual by driving home the message that the assessment of a person's suitability, capacity and capability is not to be tested and measured by medical or clinical assessment of the same but must be assessed after providing reasonable accommodation and an enabling atmosphere. The judgment of this Court in *Vikash Kumar (supra)* '*Vikash Kumar v UPSC*, (2021) 5 SCC 370' assumes increased significance in this regard. This Court in this case has expounded in detail the principle of reasonable accommodation by invoking the social model of disability. In response to the judgment, the Department of Disability Affairs, Government of India has notified guidelines for availing of scribes by all persons with specified disabilities to appear in written examinations thereby widening the ambit of its earlier guidelines issued in 2018 confining this privilege only to persons with benchmark disabilities. Very importantly, while overruling the earlier decision in *Surendra Mohan (supra)* *Surendra Mohan v State of Tamil Nadu*, (2019) 4 SCC 237 ", this Court has held that any decision which is innocent to the principle of reasonable accommodation would amount to disability-based

discrimination and is also in deep tension with the ideal of inclusive equality. After the judgment which has focused on a rights-based model and rejection of the medicalisation of the disability in order to assess the suitability and capability of PwD, the "suspicion ridden medical expertise driven model", is directly opposed to the principle as laid down by this court and also the spirit of the RPwD Act, 2016.

42. In the present case also, the opinion of the medical expert is driven only by clinical assessment and suspicion. On the basis of the same, the impugned rule, viz., clause 6A of the Madhya Pradesh Judicial Service Examination (Recruitment and Conditions of Service) Rules, 1994 specifically excluding visually impaired candidates from participation for selection as judicial officers, came to be substituted by way of amendment, which is against the guarantee of substantive equality embodied in the super-statute, i.e., the RPwD Act, 2016, and the principle of reasonable accommodation as set out therein, pursuant to India's international obligation. The rights-based model of disability has now become part of the national and normative structure of anti-discrimination regime of this country. The impugned rule, which is based on the medical report of a doctor, in the light of the foregoing analysis, cannot have any place in the disability jurisprudence that is ever evolving in a country like ours. Such conclusions based merely on a clinical assessment of disability, innocent of the principle of reasonable accommodation, cannot be said to be a fair and proper assessment of the capability of judicial officers with disabilities while participating in the selection to the post of judicial officers. It is relevant to point out here that once a person has been permitted to the degree of law course, all other opportunities, whether in the form of practice as well as appointments, assignments whether public or private, would automatically make them eligible to participate for selection to the same. The principle of legitimate expectation also stands attracted to this case as part of the aspect of non-arbitrariness while furthering the equality doctrine. Here it also relevant to mention that UNCPRD Committee in its General Comment No. 6 on Article 5, equality and non-discrimination, has developed the idea of inclusive/transformational equality. The relevant portion of the committee's observation reads as follows:

..... "Inclusive equality corresponds to a new model of disability, the human rights model of disability, which leaves a charity, welfare, and medical approaches behind and is based on the assumption that disability is not primarily a medical issue. Rather disability is a social construct and impairment must not be taken as legitimate ground for the denial or restriction of human rights".

India is a signatory to this convention and hence, under an obligation to fulfil this object of inclusive equality. In view thereof, visually impaired candidates cannot be said to be 'not suitable' for judicial service and Rule 6A of the Madhya Pradesh Judicial Service Examination (Recruitment and Conditions of Service) Rules, 1994 falls foul of the Constitution."

(Emphasis supplied)

14.6 The decision is authoritatively instructive on the approach to be adopted while assessing the suitability of persons with disabilities or recruitment against identified posts. Excluding of such persons on the basis of a medical examination is, clearly and categorically, ruled out. Para 67 of the judgment observes, in this context, thus:

"67. The overall analysis would demonstrate that a rights-based approach necessitates that PwDs must not face any discrimination in their pursuit of judicial service opportunities, and instead, there must be affirmative action on behalf of the State to provide an inclusive framework. Now, it is high time that we view the right against disability-based discrimination, as recognized in the RPwD Act, 2016, of the same stature as a fundamental right, thereby ensuring that no candidate is denied consideration solely on account of their disability. Further, as extensively discussed, the principle of reasonable accommodation, as enshrined in international conventions, established jurisprudence, and the RPwD Act, 2016, mandate that accommodations be provided to PwDs as a prerequisite to assessing their eligibility. In the light of the above, any indirect discrimination that results in the exclusion of PwDs, whether through rigid cut-offs or procedural barriers, must be interfered with in order to uphold substantive equality. The commitment to ensuring equal opportunity necessitates a structured and inclusive approach, where merit is evaluated with due regard to the reasonable accommodations required, thereby fostering judicial appointments that truly reflects the principles of fairness and justice."

(Emphasis supplied)

14.7 The assessment of individual candidates, regarding their suitability for appointment to the post of JE (Law) has, therefore, to take place in an enabling atmosphere, providing the necessary aids and assistive devices, and keeping in mind the duties to be discharged by the incumbent of the post of JE (Law). Additionally, the guidelines contained in the decision of the Supreme Court in *In re. Recruitment of Visually Impaired in Judicial Services* would also require to be scrupulously followed. At no cost can the assessment be made via a medical examination. Any such attempt would, in fact, be contemptuous of the law declared by the Supreme Court in *In re. Recruitment of Visually Impaired in Judicial Services*.

14.8 This aspect is, in fact, underscored even in the DEPWD Notification dated 4 January 2021 itself. The column in the heading "Working Conditions/Remarks", in the Table in Annexure C to the Notification specifically requires the suitability of the incumbent to be considered "with appropriate software, aids and appliances support as per needs". Note 1 in the Notification further clarifies the point by observing that persons with benchmark disabilities require aids and assistive devices to overcome difficulties and had, therefore, to be provided to such persons.

14.9 In fact, all required assistance, as would enable the person with disability to

function at his optimum level, have to be provided to him, before assessing his suitability for the post. This is the indispensable requirement of the principle of reasonable accommodation, which stands underscored by the Supreme Court in judgment after judgment, including the decision in *In re. Recruitment of Visually Impaired in Judicial Services*. Not only must all such reasonable accommodation be extended to the candidate; the atmosphere in which he is assessed must also be an enabling atmosphere. The slightest degree of relaxation, or non-compliance, with this mandate, would render the decision to treat the candidate as unsuitable for recruitment to the post, completely unsustainable in law and on facts.

14.10 At all times, the attempt must be towards inclusivity, and not exclusion. Any “let us see if he fits the bill” approach has to be sedulously eschewed. It is only if, after assessing the suitability of the candidate keeping in mind these principles, and the declaration of the law in *In re. Recruitment of Visually Impaired in Judicial Services*, that a candidate is found to be completely incapable of discharging their duties of JE (Law), that he can be considered unsuitable for the post.

14.11 We also deem it appropriate, in this context, to take note of the functional requirements of the post of Legal Assistant/JE (Law), as stipulated in the DEPWD Notification dated 4 January 2021. These requirements stand set out in the Table to Annexure C to the DEPWD Notification, reproduced in para 6.2 supra. Prima facie, it appears that the functions to be performed by a Legal Assistant, or JE (Law), are not such as cannot be performed by a blind person, provided he is provided with the requisite aid and assistive devices. Our opinion in this regard is, however, tentative, and subject to the outcome of the re-assessment of the petitioner as directed hereinafter.

14.12 The manner in which the petitioner has been declared unsuitable for appointment as JE (Law) is, therefore, clearly unsustainable in law. Resultantly, the rejection of the petitioner’s candidature, on the ground that he is unsuitable for appointment as JE (Law) for want of possessing the functional attribute of “seeing”, has to be set aside.

15. Re. the plea of estoppel

15.1 The only other plea that requires to be addressed is Mr. Rai’s contention that, having participated in the selection in awareness of the stipulation that “seeing” was an essential functional requirement for recruitment as JE (Law), the petitioner is estopped from raising the present challenge.

15.2 The plea cannot succeed for a variety of reasons.

15.3 Firstly, the manner in which the respondents have implemented Note 8 against the petitioner is contrary not only to the stipulations contained in the DEPWD Notification dated 4 January 2021, but the law declared in *In re. Recruitment of Visually Impaired in Judicial Services*. It cannot, therefore,

sustain.

15.4 Secondly, we have held that the manner in which the respondents have interpreted the functional requirement of “seeing” is incorrect. This is obviously not a plea which could have been raised by the petitioner earlier.

15.5 Thirdly, the principle that a candidate cannot ventilate a challenge after having participated in the selection process is not applicable is not absolute, as is held in the following passages from *Dr (Major) Meeta Sahai v State of Bihar* (2019) 20 SCC 17:

“12. On the other hand, the learned counsel for the respondents questioned the maintainability of the appellant's challenge and urged that once a candidate had participated in a recruitment process, he/she could not at a later stage challenge its correctness merely because of having failed in selection. It was contended that the appellant was taking “two shots” at success, and her challenge was opposed for being opportunistic. Further it was argued by the respondents that the appellant's attempt to draw inference from the Dentist Rules has rightly not been accepted by the High Court. Moreover, the advertisement was shown as being merely clarificatory in stating that marks shall only be granted for work experience in hospitals of the Government of Bihar.

Preliminary issues

15. Furthermore, before beginning analysis of the legal issues involved, it is necessary to first address the preliminary issue. The maintainability of the very challenge by the appellant has been questioned on the ground that she having partaken in the selection process cannot later challenge it due to mere failure in selection. The counsel for the respondents relied upon a catena of decisions of this Court to substantiate his objection.

16. It is well settled that the principle of estoppel prevents a candidate from challenging the selection process after having failed in it as iterated by this Court in a plethora of judgments including *Manish Kumar Shahi v State of Bihar* (2010) 12 SCC 576, observing as follows:

“16. We also agree with the High Court that after having taken part in the process of selection knowing fully well that more than 19% marks have been earmarked for viva voce test, the appellant is not entitled to challenge the criteria or process of selection. Surely, if the appellant's name had appeared in the merit list, he would not have even dreamed of challenging the selection. The [appellant] invoked jurisdiction of the High Court under Article 226 of the Constitution of India only after he found that his name does not figure in the merit list prepared by the Commission. This conduct of the appellant clearly disentitles him from questioning the selection and the High Court did not commit any error by refusing to entertain the writ petition.”

The underlying objective of this principle is to prevent candidates from trying another shot at consideration, and to avoid an impasse wherein every disgruntled candidate, having failed the selection, challenges it in the hope of getting a second chance.

17. However, we must differentiate from this principle insofar as the candidate by agreeing to participate in the selection process only accepts the prescribed procedure and not the illegality in it. In a situation where a candidate alleges misconstruction of statutory rules and discriminating consequences arising therefrom, the same cannot be condoned merely because a candidate has partaken in it. The constitutional scheme is sacrosanct and its violation in any manner is impermissible. In fact, a candidate may not have locus to assail the incurable illegality or derogation of the provisions of the Constitution, unless he/she participates in the selection process.”

(Emphasis supplied)

15.6 Fourthly, the issue involved is enforcement of the rights of persons with disabilities as guaranteed under the RPWD Act which, according to the decision in *In re. Recruitment of Visually Impaired in Judicial Services*, has acquired the status of a “super statute”. There can be no estoppel against enforcement of such rights. They are sacrosanct, and part of our constitutional ethos. Relief, in such a case, cannot be denied on the ground that the petitioner participated in the selection process. Conformity with the constitutional mandate is the solemn duty of all, including the respondents.

15.7 We, therefore, are not inclined to reject the present petition on the ground that the petitioner participated in the selection process.

15.8 The objection to that effect, as raised by Mr. Rai, is accordingly rejected.

The Sequitur

16. Except for the challenge to Note 8 in the DEPWD Notification dated 4 January 2021, therefore, the petition is bound to succeed.

WP (C) 61/2025 [*Amit Kumar v Airports Authority of India*] and WP (C) 68/2025 [*Deepak Arora v Airports Authority of India*]

17. The issue in these writ petitions is identical to that in WP (C) 938/2025. The only difference is that Amit Kumar, the petitioner in WP (C) 61/2025 was aspiring to the post of Junior Executive (Common Cadre) whereas Deepak Arora, the petitioner in WP (C) 68/2025 was aspiring to the post of Junior Executive (Finance). Their candidature has also been cancelled on the ground that they do not satisfy the functional requirement of “seeing”.

18. The findings returned by us in respect of Mudit Gupta *supra* would apply *mutatis mutandis* to these petitioners who would also, therefore, be entitled to the relief in terms of the relief granted to Mudit Gupta.

Conclusion

19. Resultantly, we dispose of these writ petitions in the following terms:

(i) The challenge to Note 8 in the DEPWD Notification dated 4 January 2021 is rejected.

(ii) The rejection of the petitioners' candidature for the posts to which they aspire, consequent on Advertisement 03/2023, is quashed and set aside.

(iii) The functional suitability of the petitioners for the posts would be re-assessed. The reassessment would not be undertaken by medical means. It would strictly abide by the decision of the Supreme Court in *In re. Recruitment of Visually Impaired in Judicial Services* and in this judgment. We emphasize that the aim and attempt must be at ensuring that the petitioners are recruited, and not at excluding them from appointment. It is only if, even after scrupulous adherence to the principles and procedure outlined in *In re. Recruitment of Visually Impaired in Judicial Services* and hereinabove, that any petitioner is found entirely unsuitable for appointment as JE, that she, or he, can be disqualified from appointment.

(iv) For this purpose, the re-assessment of the petitioners would take place within two weeks of pronouncement of this judgment. Petitioners who are found suitable would be offered appointment within four weeks thereof. They shall be entitled to be treated as appointed to the concerned posts with other candidates who have been so appointed pursuant to Advertisement 03/2023, along with continuity of service and all other benefits, except back wages.

20. The writ petitions stand, accordingly, allowed in part, with no orders as to costs.