



2025:DHC:1154-DB



\$~46

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ W.P.(C) 2238/2025, CM APPL. 10455/2025 & CM APPL.
10456/2025

**DELHI SUBORDINATE SERVICES SELECTION
BOARD (DSSSB) AND ORS.**Petitioners
Through: Mr. Naushad Ahmed Khan, Ms.
Supriya Malik, Mr. Gabrilla D. Divia and
Mr. Shubham Sharma, Advs.

versus

SUMITRespondent
Through:

**CORAM:
HON'BLE MR. JUSTICE C. HARI SHANKAR
HON'BLE MR. JUSTICE AJAY DIGPAUL**

JUDGMENT (ORAL)

% **20.02.2025**

C. HARI SHANKAR, J.

CM APPL. 10456/2025

1. Exemption allowed, subject to all just exceptions.
2. The application is disposed of.

W.P.(C) 2238/2025 & CM APPL. 10455/2025 (Stay)

Facts



2025:DHC:1154-DB



3. The respondent, who is admittedly a candidate suffering from 63% Orthopaedic disability, as per Certificate dated 24 January 2014 issued by the Maharishi Valmiki Hospital, Govt. of N.C.T. of Delhi, under the Persons with Disabilities Act, underwent a process of selection for recruitment to the post DASS Grade IV. The said certificate reads thus:

“MAHARISHI VALMIKI HOSPITAL
GOVT. OF N.C.T. OF DELHI
POOTH KHURD, DELHI – 110 039

CERTIFICATE NO. MUH/DC/2012/623

DATE 24/1/14

CERTIFICATE FOR THE PERSON WITH DISABILITIES

This is to certify that Shri. SUMIT Age 18 Years Sex M Son of Shri Balram Residence of 316, VILLAGE AUCHANDI DELHI – 39 Registration No. MUH/PH/383 in case of Manifest deformity of (L) distal humerus & proximal migration of (L) radius He/She is physically disabled and has 63% Sixty Three (percent) permanent physical impairment in relation to his (L) Elbow Joint.

Note: -

1. This condition is ~~progressive~~/none progressive/~~likely to improve~~.
2. Re-assessment is not recommended/ ~~is recommended~~ after a period of _____ months/years.
(Strike out which is not applicable)”

4. The selection required the candidate to undertake a typewriting test, which was conducted on 3 January 2018. An admit card was issued to the respondent, to enable him to appear in the typewriting test. The typewriting test was, however, only qualifying in nature, and followed the written examination, the comparative merit in which constituted the basis of selection.



5. As per the averments made by the respondent in OA 3188/2018 filed by him before the Central Administrative Tribunal¹, from whose order this petition emanates, the petitioner was facing difficulty in typing in view of the orthopaedic disability suffered by him, which was in the elbow of his left arm. The OA averred that, owing to the pain that he was experiencing, the petitioners had requested the examiner to exempt him from having to undergo the typewriting test. However, it is not in dispute that the respondent did not produce, at the time, his disability certificate. Perhaps for this reason, the respondent was not granted exemption from undertaking typewriting test which he accordingly undertook.

6. A list of the candidates who had qualified the skill test was released by the petitioners *vide* Notice No. 665 dated 24 May 2018. It appears that 16 other candidates suffering from disability had been exempted from appearing in the typewriting test and figured in the list of the candidates in the said notice. They were, therefore, provisionally allowed to upload their e-dossiers subject to finalization of their claims and qualifications in the typewriting test.

7. Mr. Naushad Ahmed Khan, appearing for the DSSSB, does not dispute that, on the basis of his disability certificate, the respondent would have been entitled to exemption from undertaking the typewriting test. This, however, he emphasizes, was subject to the respondent producing the disability certificate before the examiner, at

¹ "the Tribunal" hereinafter



2025:DHC:1154-DB



the time of undertaking the typewriting test, or prior thereto.

8. As the respondent's name did not figure in the notice dated 24 May 2018, he addressed representations to the petitioners on 4 June 2018 and 11 July 2018, seeking exemption from appearing in the typewriting test and, therefore, seeking that he also be shortlisted along with the other 16 physically disabled candidates figuring in the notice dated 24 May 2018.

9. 8 of the 16 orthopaedically disabled candidates who had been shortlisted after the typewriting test were finally selected. It is not in dispute that all of them scored less than the respondent on merit.

10. Aggrieved by the fact that he was not selected or granted exemption from skill/typewriting test, the respondent approached the Tribunal by way of OA 3188/2018, seeking that he be granted exemption from skill/typewriting test and be considered for appointment to the Post Code 61/15 in accordance with his merit in the written examination, keeping in mind his orthopaedically disabled status.

11. The DSSSB, as the respondent before the Tribunal, contested the OA, contending that the respondent was not entitled to relief as he had not produced his disability certificate at the time of undertaking the typewriting test, as required by notice dated 2 January 2018 issued by the DSSSB, which read as under:



“I am directed to inform to convey the guidelines laid down by DOPT No. 14020/2014-Estt. (D) dated 22th April, 2015 for the physically handicapped persons/candidates who are seeking exemption from passing typing test may be read as under:

- (a) Physically handicapped persons who are otherwise qualified to hold clerical post and who are certified as being unable to type by the Medical Board attached to Special Employment Exchanges for the Handicapped (or by a Civil Surgeon where there is no such Board) may be exempted from passing the typing test.
- (b) The term 'physically handicapped persons' does not cover those who are visually handicapped or who are hearing handicapped but cover only those whose physical disability permanently prevents them from typing.

In view of the above, candidates who are seeking exemption are required to give certificate from Medical Board attached to Special Employment Exchanges for the Handicapped (or by a Civil Surgeon that the he/she is unable to type at Skill Test Centre the on the date mentioned on e-Admit Card.”

12. The second ground on which the respondent’s claim was contested by the DSSSB was that the respondent raised the issue of not having been granted exemption from undertaking the typewriting/skill test only after the results had been declared.

13. These contentions have also been reiterated before us by Mr. Naushad Khan, learned Counsel for the DSSSB.

The impugned judgement

14. The Tribunal noted that the Department of Personnel and



Training² had, in its OM dated 22 April 2015, specifically provided for exemption from physically disabled persons who were certified as unable to type by the medical board, from undertaking the typing test. The relevant clause from the aforementioned OM dated 22 April 2015 stands reproduced in para 8.1 of the impugned judgment and reads thus:

“a) Physically handicapped persons who are otherwise qualified to hold clerical post and who are certified as being unable to type by the Medical Board attached to Special Employment Exchanges for the Handicapped (or by a Civil Surgeon where there is no such Board) may be exempted from passing the typing test.”

15. The Tribunal, noting the fact that the respondent was in fact in possession of a disability certificate issued by the competent authority, certifying that he had 63% permanent physical impairment in his left elbow joint, which would naturally disable him from undertaking the typing test or qualifying in it, and keeping in mind the fact that all orthopaedically handicapped candidates who were granted exemption from undertaking the typing test and who were ultimately selected had scored less than the respondent in the written examination, deemed it appropriate to grant the relief to the respondent. While doing so, the Tribunal has relied on a judgment passed by this Court in *Raju Ranjan v UOI*³.

16. We deem it appropriate to reproduce paras 11, 12, 15, 15.1 and 16 of the impugned judgment, thus:

² “DOPT” hereinafter

³ 2023 SCC Online Del 4477



11. We have given anxious consideration to the default on the part of the applicant in not approaching the Competent Authority by providing a certificate as prescribed well in time. The applicant chose to appear in the typing test though he failed in the said typing test. In light of the provision as contained in the Right of person with Disability Act, it does not preclude the applicant from seeking exemption, more particularly, in light of the fact that the applicant had obtained 114 marks in the written examination.

12. It is also a fact that the applicant suffers from a 63% permanent physical impairment in relation to his left elbow joint, which would necessarily have been an impediment in performing well in the typing skill test. The applicant took a chance with the same, which by itself does not give grounds to the respondents not to consider the case of the applicant, as he has secured well, i.e., 114 marks in the written test. Keeping in view the pious objection of the Act for which it was enacted.

15. Since the applicant chose to participate in the typing test without seeking exemption and failed. We direct that the applicant shall not be entitled to any consequential relief except notional seniority.

15.1. It is also a matter of fact that written representation of the applicant was also not addressed by the respondents.

16. In view of the above, the applicant is entitled to the grant of exemption towards the typing test, the OA deemed to be allowed. The actual benefits to the applicant shall be accorded from the date of the joining. This exercise shall be done within a period of two months from the date of receipt of a copy of this order.”

17. Aggrieved by the aforesaid decision, the DSSSB has approached this Court by means of the present writ petition.

18. Mr. Naushad Khan who appears for the petitioner has been heard.

Analysis



19. Though both the contentions advanced by Mr. Khan are predicated on correct facts, they, in our considered opinion, do not make out a case for interference with the decision of the Tribunal.

20. It is correct that the respondent did not produce his disability certificate before the authorities at the time of undertaking the typing test. That said, however, it is not in dispute that, while undertaking the typing test, the respondent did seek exemption in view of the pain that he was suffering, which was not allowed.

21. The DSSSB does not question the correctness of the respondent's disability certificate either. The disability certificate specifically certifies that the respondent was suffering from 63% permanent disability in his left elbow joint. It goes without saying that a person who suffers from disability of that nature and magnitude would not be able to undertake the typewriting test and that, had the certificate been produced, he would invariably have been entitled to exemption therefrom.

22. Incidentally, despite the orthopaedic disability from which the respondent suffered, he managed a typing speed of 33.46 words per minute in English, which was marginally below the basic requirement of 35 words per minute as per the Recruitment Rules. We commend the respondent, and the effort put in by him, despite the pain he must have experienced, which we can only conjecture.

23. The typewriting test, as we have already noted, was only in the



nature of qualifying examination and did not constitute the basis for comparative evaluation of the candidates. Comparative evaluation was on the basis of the written examination. It is also not in dispute that the final result included the scores of 8 orthopaedically handicapped candidates who had been granted exemption from undertaking the typewriting test. It is also not in dispute that all the said candidates scored less than the respondent in the written examination.

Disability jurisprudence, and its *raison d'etre*

24. The Right of Persons With Disability Act, 2016⁴ was enacted to give effect to the United Nations Convention on the Rights of Persons With Disabilities⁵, adopted on 13 December 2006. The UN Convention envisaged, among the principles for empowerment of persons with disability, non discrimination, full and effective participation and inclusion in society, equality of opportunity and accessibility. According to the preamble to the RPWD Act, the objects that the Right of Persons With Disabilities Bill aimed at achieving included enjoyment, by persons with disabilities, of “various rights such as right to equality, life with dignity, respect for his or her integrity, etc., with others”. Section 3(1) of the RPWD Act requires the appropriate Government to “ensure that the persons with disabilities enjoy the right to equality, life with dignity and respect for his or her integrity equally with others” and Section 3(3) proclaims

⁴ “the RPWD Act” hereinafter

⁵ “the UN Convention” hereinafter



that “no person with disability shall be discriminated on the ground of disability, unless it is shown that the impugned act or omission is a proportionate means of achieving a legitimate aim”.

25. Chapter IV of the RPWD Act deals with Skill Development and Employment, and Section 19(1), thereunder, proscribes every Government establishment from discriminating “against any person with disability in any matter relating to employment”. Provisions permitting exemption from undertaking qualifying tests in which persons with disability may, owing to the disability from which they suffer, be disadvantaged, are intended to foster the purpose of Section 19(1), and the philosophy underlying the provision must, therefore, instruct every authority, including the Court, while administering and implementing such provisions. In tandem with sub-section (1), sub-section (2) of Section 20 requires every Government establishment to “provide reasonable accommodation and appropriate barrier free and conducive environment to persons with disability”.

26. *Vikash Kumar v UPSC*⁶ is a watershed decision in disability rights jurisprudence. The appellant before the Supreme Court, in that case, was also, incidentally, a person suffering from upper arm orthopaedic disability. In the context of reasonable accommodation, the following paragraphs from the report make for instructive reading:

“42. The fundamental postulate upon which the 2016 RPwD Act is based is the principle of equality and non-discrimination. Section 3 casts an affirmative obligation on the Government to ensure that

⁶ (2021) 5 SCC 370



persons with disabilities enjoy : (i) the right to equality; (ii) a life with dignity; and (iii) respect for their integrity equally with others. Section 3 is an affirmative declaration of the intent of the legislature that the fundamental postulate of equality and non-discrimination is made available to persons with disabilities without constraining it with the notion of a benchmark disability. Section 3 is a statutory recognition of the constitutional rights embodied in Articles 14, 19 and 21 among other provisions of Part III of the Constitution. By recognising a statutory right and entitlement on the part of persons who are disabled, Section 3 seeks to implement and facilitate the fulfilment of the constitutional rights of persons with disabilities.

43. There is a critical qualitative difference between the barriers faced by persons with disabilities and other marginalised groups. In order to enable persons with disabilities to lead a life of equal dignity and worth, it is not enough to mandate that discrimination against them is impermissible. That is necessary, but not sufficient. We must equally ensure, as a society, that we provide them the additional support and facilities that are necessary for them to offset the impact of their disability. This Court in its judgment in *Jeeja Ghosh v. UOI*⁷, noted that a key component of equality is the principle of reasonable differentiation and specific measures must be undertaken, recognising the different needs of persons with disabilities, to pave the way for substantive equality. A.K. Sikri, J. stated in the above judgment :

“40. In international human rights law, equality is founded upon two complementary principles : non-discrimination and reasonable differentiation. The principle of non-discrimination seeks to ensure that all persons can equally enjoy and exercise all their rights and freedoms. Discrimination occurs due to arbitrary denial of opportunities for equal participation. For example, when public facilities and services are set on standards out of the reach of persons with disabilities, it leads to exclusion and denial of rights. *Equality not only implies preventing discrimination (example, the protection of individuals against unfavourable treatment by introducing anti-discrimination laws), but goes beyond in remedying discrimination against groups suffering systematic discrimination in society. In concrete terms, it means embracing the notion of positive rights, affirmative action and reasonable accommodation.*”

⁷ (2016) 7 SCC 761



(emphasis supplied)

44. The principle of reasonable accommodation captures the positive obligation of the State and private parties to provide additional support to persons with disabilities to facilitate their full and effective participation in society. The concept of reasonable accommodation is developed in section (H) below. For the present, suffice it to say that, for a person with disability, the constitutionally guaranteed fundamental rights to equality, the six freedoms and the right to life under Article 21 will ring hollow if they are not given this additional support that helps make these rights real and meaningful for them. Reasonable accommodation is the instrumentality—are an obligation as a society—to enable the disabled to enjoy the constitutional guarantee of equality and non-discrimination. In this context, it would be apposite to remember R.M. Lodha, J's (as he then was) observation in *Sunanda Bhandare Foundation v. UOI*⁸; *Disabled Rights Group v. UOI*⁹, where he stated :

“9. ... In the matters of providing relief to those who are differently abled, the approach and attitude of the executive must be liberal and relief oriented and not obstructive or lethargic.”

(Emphasis supplied)

H. Reasonable accommodation

60. At the heart of this case lies the principle of reasonable accommodation. Individual dignity undergirds the 2016 RPWD Act. Intrinsic to its realisation is recognising the worth of every person as an equal member of society. Respect for the dignity of others and fostering conditions in which every individual can evolve according to their capacities are key elements of a legal order which protects, respects and facilitates individual autonomy. In seeking to project these values as inalienable rights of the disabled, the 2016 RPWD Act travels beyond being merely a charter of non-discrimination. It travels beyond imposing restraints on discrimination against the disabled. The law does this by imposing a positive obligation on the State to secure the realisation of rights. It does so by mandating that the State must create conditions in which the barriers posed by disability can be

⁸ (2014) 14 SCC 383

⁹ (2018) 2 SCC 397



overcome. The creation of an appropriate environment in which the disabled can pursue the full range of entitlements which are encompassed within human liberty is enforceable at law. In its emphasis on substantive equality, the enactment of the legislation is a watershed event in providing a legal foundation for equality of opportunity to the disabled.

61. As a social construct, disability encompasses features broader and more comprehensive than a medical condition. The 2016 RPwD Act recognises that disability results in inequality of access to a range of public and private entitlements. The handicaps which the disabled encounter emerge out of disability's engagement with the barriers created by prejudice, discrimination and societal indifference. Operating as restraining factors, these barriers have origins which can be traced to physical, social, economic and psychological conditions in society. Operating on the pre-existing restraints posed by disability, these barriers to development produce outcomes in which the disabled bear an unequal share of societal burdens. The legislation has recognised that remedies for the barriers encountered by the disabled are to be found in the social environment in which they live, work and cohabit with others. The barriers encountered by every disabled person can be remedied by recognising comprehensive rights as inhering in them; rights which impose duties and obligations on others.

62. The principle of reasonable accommodation acknowledges that if disability as a social construct has to be remedied, conditions have to be affirmatively created for facilitating the development of the disabled. Reasonable accommodation is founded in the norm of inclusion. Exclusion results in the negation of individual dignity and worth or they can choose the route of reasonable accommodation, where each individuals' dignity and worth is respected. Under this route, the “powerful and the majority adapt their own rules and practices, within the limits of reason and short of undue hardship, to permit realisation of these ends”. [Reasonable Accommodation in A Multicultural Society, Address to the Canadian Bar Association Continuing Legal Education Committee and the National Constitutional and Human Rights Law Section, 7-4-1995, Calgary, Alberta at 1.]

63. In the specific context of disability, the principle of reasonable accommodation postulates that the conditions which exclude the disabled from full and effective participation as equal members of society have to give way to an accommodative society which accepts difference, respects their needs and facilitates the



creation of an environment in which the societal barriers to disability are progressively answered. Accommodation implies a positive obligation to create conditions conducive to the growth and fulfilment of the disabled in every aspect of their existence — whether as students, members of the workplace, participants in governance or, on a personal plane, in realising the fulfilling privacies of family life. The accommodation which the law mandates is “reasonable” because it has to be tailored to the requirements of each condition of disability. The expectations which every disabled person has are unique to the nature of the disability and the character of the impediments which are encountered as its consequence.

65. Failure to meet the individual needs of every disabled person will breach the norm of reasonable accommodation. Flexibility in answering individual needs and requirements is essential to reasonable accommodation. The principle contains an aspiration to meet the needs of the class of persons facing a particular disability. Going beyond the needs of the class, the specific requirement of individuals who belong to the class must also be accommodated. The principle of reasonable accommodation must also account for the fact that disability based discrimination is intersectional in nature. The intersectional features arise in particular contexts due to the presence of multiple disabilities and multiple consequences arising from disability. Disability therefore cannot be truly understood by regarding it as unidimensional. Reasonable accommodation requires the policy-makers to comprehend disability in all its dimensions and to design measures which are proportionate to needs, inclusive in their reach and respecting of differences and aspirations. Reasonable accommodation cannot be construed in a way that denies to each disabled person the customisation she seeks. Even if she is in a class of her own, her needs must be met. [Amita Dhanda, Prof. of Law, Nalsar, “In a class of my own : Reasonable accommodation from a disability perspective” [ppt presentation].] While assessing the reasonableness of an accommodation, regard must also be had to the benefit that the accommodation can have, not just for the disabled person concerned, but also for other disabled people similarly placed in future.

66. As the Committee on the Rights of Persons with Disabilities (“the CRPD Committee”) noted in General Comment 6, reasonable accommodation is a component of the principle of inclusive equality. [CRPD Committee, General Comment 6 on



Equality and Non-discrimination (2018) [GC 6], CRPD/C/GC/6, 26-4-2018, para 11.] It is a substantive equality facilitator. The establishment of this linkage between reasonable accommodation and non-discrimination thus creates an obligation of immediate effect. [Lord, J.E., & Brown, R. (2010), “The role of reasonable accommodation in securing substantive equality for persons with disabilities : The UN Convention on the Rights of Persons with Disabilities”, Critical Perspectives on Human Rights and Disability Law (pp. 273-307) (Brill Nijhoff, at p. 279).] Under this rights-based and disabled-centric conceptualisation of reasonable accommodation, a failure to provide reasonable accommodation constitutes discrimination. Reasonable accommodation determinations must be made on a case-by-case basis, in consultation with the disabled person concerned. [CRPD Committee, GC 6 at para 25[c].] Instead of making assumptions about how the relevant barriers can be tackled, the principle of reasonable accommodation requires dialogue with the individual concerned to determine how to tackle the barrier. [Anna Lawson, “Reasonable Accommodation in the Convention on the Rights of Persons with Disabilities and Non-Discrimination in Employment : Rising to the Challenges?”, in Charles O'Mahony and Gerard Quinn (Eds.), Disability Law and Policy : An Analysis of the UN Convention (Dublin : Clarus Press, 2017), pp. 359-74, at 362.]

67. The concept of reasonable accommodation as a component of the equality guarantee has been recognised in a consistent line of precedents of this Court. [*Rajive Raturi v. Union of India*¹⁰; *Jeeja Ghosh v. Union of India*¹¹, and *Disabled Rights Group v. Union of India*¹²:] Illustratively, in *Syed Bashir-ud-din Qadri v. Nazir Ahmed Shah*¹³, this Court, speaking through Altamas Kabir, J. held that a person having cerebral palsy should be given access to an external electronic aid as a reasonable accommodation to offset the impact of his inability to write on the blackboard. The Court held as follows:

“52. ... while a person suffering from cerebral palsy may not be able to write on a blackboard, an electronic external aid could be provided which could eliminate the need for drawing a diagram and the same could be substituted by a picture on a screen, which could be projected with minimum effort.” ”

¹⁰ (2018) 2 SCC 413

¹¹ (2016) 7 SCC 761

¹² (2018) 2 SCC 397

¹³ (2010) 3 SCC 603



(Italics in original; underscoring supplied)

27. On the aspect of “reasonable accommodation” when understood in the context of persons with disability, the Supreme Court, in *Rajive Raturi v UOI* ruled thus:

“37. At this stage, it is also crucial to understand the relationship between reasonable accommodation and accessibility, as both are essential for achieving equality for PWDs. *While accessibility generally refers to the removal of barriers in the environment or infrastructure to ensure equal access for all, reasonable accommodation is more individualised.*¹⁴ *It involves making specific adjustments to meet the unique needs of a person with a disability. In other words, accessibility ensures that environments are designed to be inclusive from the outset, while reasonable accommodation ensures that individuals who face specific challenges can enjoy their rights on an equal basis in particular contexts.*

38. As highlighted by the Committee on the Rights of Persons with Disabilities in General Comment 6, reasonable accommodation is integral to the principle of inclusive equality, acting as a facilitator for substantive equality.¹⁵ The General Comment articulated the relationship between reasonable accommodation and accessibility as follows:

“22. Accessibility is related to groups, whereas reasonable accommodation is related to individuals. This means that the duty to provide accessibility is an ex ante duty. States parties therefore have the duty to provide accessibility before receiving an individual request to enter or use a place or service. States parties need to set accessibility standards, which must be negotiated with organizations of persons with disabilities, and they need to be specified for service-providers, builders and other relevant stakeholders. Accessibility standards must be broad and standardized. In the case of individuals who have

¹⁴ Anna Lawson, ‘Reasonable Accommodation in the Convention on the Rights of Persons with Disabilities and Non-Discrimination in Employment : Rising to the Challenges?’, in Disability Law and Policy : An Analysis of the UN Convention, ed. Charles O’Mahony and Gerard Quinn (Dublin : Clarus Press, 2017), 366.

¹⁵ General Comment on Accessibility, CRPD/C/GC/2, para. 25 by the Committee on the Rights of Persons with Disabilities



rare impairments that were not taken into account when the accessibility standards were developed or do not use the modes, methods or means offered to achieve accessibility (not reading Braille print, for example), even the application of disability standards may not be sufficient to ensure them access. In such cases, reasonable accommodation may apply.

23. The duty to provide reasonable accommodation is an ex nunc duty, which means that it is enforceable from the moment an individual with an impairment needs it in a given situation (workplace, school, etc.) in order to enjoy her or his rights on an equal basis in a particular context. Here, accessibility standards can be an indicator, but may not be taken as prescriptive. Reasonable accommodation can be used as a means of ensuring accessibility for an individual with a disability in a particular situation. *Reasonable accommodation seeks to achieve individual justice in the sense that non-discrimination or equality is assured, taking the dignity, autonomy and choices of the individual into account.* Thus, a person with a rare impairment might ask for accommodation that falls outside the scope of any accessibility standard. *The decision to provide it or not depends on whether it is reasonable and whether it imposes a disproportionate or undue burden.”*

(Emphasis Supplied)

39. It is crucial to reiterate that accessibility is an ex-ante duty, meaning that the State is required to implement accessibility measures proactively, before an individual even requests to enter or use a place or service. This proactive responsibility ensures that accessibility is embedded in the infrastructure and services from the outset. The State must establish broad, standardised accessibility standards in consultation with disability organizations, ensuring that these standards are enforced by service providers, builders, and all relevant stakeholders. **The state cannot negate its duty to accessibility** by relying solely on existing standards or waiting for individual requests. For example, inaccessible information for a person with intellectual disabilities would require reasonable accommodation (such as a verbal explanation), whereas accessible information (e.g., in an easy-read format) would eliminate the need for such accommodation.

40. In such cases, reasonable accommodation may be necessary only as a complementary measure to ensure equal access. The duty to accommodate plays an important role in enabling people with



disabilities to challenge accessibility barriers in particular, individualized cases. Compliance with the reasonable accommodation duty for one individual with a disability can, in turn, enhance the overall accessibility of structures for all people.

41. In *Vikash Kumar v. Union Public Service Commission*¹⁶, this Court also highlighted that reasonable accommodation must consider not only the benefit to the individual but also to others in similar situations in the future. Accessibility and reasonable accommodation require a departure from the *status quo* and that challenges in implementing such measures should not be seen as barriers to inclusion. Complications in implementation are inevitable, but they should not be used as an excuse to deny accommodations.

42. The RPWD Act and international frameworks such as the CRPD¹⁷ emphasize that accessibility should be built into systems and infrastructure from the outset. However, where this is not enough, reasonable accommodation comes into play to tailor solutions to individual needs. This dual approach ensures that all individuals, regardless of their impairments, have equal opportunities and access to participate fully in society. Both accessibility and reasonable accommodation must therefore be seen as interdependent and complementary, each reinforcing the other in the pursuit of full inclusion and equality.”

(Emphasis supplied)

28. The approach of a Court, while dealing with candidates who fall within the parameters of the RPWD Act has to be qualitatively different from that which is adopted in the case of normally abled candidates. The Court must be sensitized to the necessity for reasonable accommodation, so as to promote and enhance inclusivity for the disabled in the general societal fabric, which would include the workplace, and, needless to say, entry into the workplace. Provisions envisaging reasonable accommodation, and support for persons with disabilities must be understood as such, and, in their implementation,

¹⁶ AIR 2021 SC 2447

¹⁷ United Nation Convention on the Rights of Persons With Disabilities



Courts must proceed with this perspective in mind. It has to be remembered that provisions aiming at inclusion by reasonable accommodation are individual-centric, and, while the Government, or the executive, is empowered to have in place reasonable checks and balances to ensure that such provisions are not misused or exploited, and do not work in a manner which would completely skew the equation even between the disabled *inter se*, short of that, the Court has to attempt a liberal, and disabled-friendly interpretation of the provisions.

29. The Court cannot, therefore, in the case of such candidates, adopt as rigid an approach as it would adopt in the case of normally abled candidates as adopting such an approach might have an effect of diluting the intent and beneficial scope of the RPWD Act. At all times, the Court must endeavour to promote the aims of the said legislation and to ensure that the benefit of the legislation is extended as far as possible.

30. The accommodation granted to persons suffering from upper limb orthopaedic disability as would handicap them in undertaking the typewriting test, whereby they could be exempted from doing so, is clearly an aim at reasonable accommodation for such candidates. The implementation of such an accommodative provision has, therefore, to be informed, at all times, by the guiding philosophy behind it. A hyper-rigid insistence on implicit adherence to every formal or procedural stipulation might result in diluting the purpose of the



accommodation and may, to that extent, even breach the guarantee of equal opportunity extended by the RPWD Act. While the discipline of the provision must be maintained, the Court – as also the executive authorities which implement the provision – have to be alive to the pious purpose that it seeks to achieve.

31. *Vikash Kumar* and *Rajive Raturi* cover the entire spectrum of disability jurisprudence, and no further discussion on the subject would, therefore, be necessary.

32. Thus viewed, given the fact that the respondent was, undisputedly, a candidate suffering over 60% orthopaedic disability in his elbow, we are of the opinion that the Court has, in such circumstances, to step in and ensure that the benefit of exemption from the typewriting test, available to such candidates, is available to the respondent, and that the mere fact that the respondent did not have, with him, his disability certificate at the time of undertaking the typewriting test cannot be a ground to disentitle him to the accommodation otherwise provided to candidates suffering from the said disability.

33. The impugned judgement of the Tribunal harmonizes with the guiding philosophy behind grant of reasonable accommodation to persons with disability.

34. In that view of the matter, we do not find this to be a case in which, an exercise of our jurisdiction under Article 226 of the



2025:DHC:1154-DB



Constitution of India, we should interfere with the judgment of the Tribunal.

35. Needless to say, as is apparent from the above recitation, we are passing this judgment in the peculiar circumstances of this case, especially keeping the fact that the respondent had in fact expressed disability in undertaking the typing test during the time when he was undertaking it and sought exemption, and had been issued a disability certificate prior thereto. We would not want this judgement to be treated as a *carte blanche* to do away with all procedural requirements which apply in such cases. Ultimately, in each case, the Court has to approach the matter keeping in mind the facts before it.

36. The writ petition is accordingly dismissed.

C.HARI SHANKAR, J.

AJAY DIGPAUL, J.

FEBRUARY 20, 2025/ar

Click here to check corrigendum, if any