

5. SC Questions on Disabilities Quota – Polity

Supreme Court asks Centre why disabled candidates are allocated reserved seats even when they score above cut-off marks. The Supreme Court has questioned why meritorious Persons with Disabilities (PwDs) who clear general cut-offs are not moved to the unreserved list, unlike other reserved categories. This aims to make the 4% reservation a "ladder, not a cage," addressing the severe underrepresentation of PwDs in government jobs.

Supreme Court Champions 'Upward Mobility' for Persons with Disabilities

The Supreme Court has questioned the Union Government on why meritorious Persons with Disabilities (PwDs), who qualify on their own merit by clearing the general category cut-off, are not being shifted to the unreserved list. This practice would leave more reserved seats available for other deserving PwD candidates.

Key Observations by the Supreme Court –

The Upward Mobility Principle – Denying meritorious PwDs the chance to move to the unreserved category defeats the very purpose of reservation, which is to ensure fair representation, not to cap their potential.

"Hostile Discrimination" – The Court noted that candidates from OBC, SC, and ST categories who qualify on merit are routinely moved to the general list. Denying the same opportunity to PwDs amounts to "hostile discrimination."

Purpose of Reservation – The goal of reservation is to mainstream PwDs into society, not to confine them to a fixed number of seats.

Disability as a Test of Inclusivity – The Court urged a shift in perspective, viewing disability not as a deficit but as a measure of how inclusive our legal and institutional frameworks are.

"Project Ability Empowerment" – A New Monitoring Initiative

As part of its judgment, the Supreme Court has initiated "Project Ability Empowerment." This project entrusts eight National Law Universities (NLUs) across the country to conduct a nationwide monitoring of care institutions that house persons with cognitive disabilities. The National Law School of India University (NLSIU), Bengaluru, will lead the monitoring for the southern region, covering Karnataka, Kerala, Tamil Nadu, Andhra Pradesh, Puducherry, and Lakshadweep.

Significance of Upward Mobility for PwDs

Tackling Underrepresentation – Despite a legal mandate for a 4% quota, PwDs constitute only about 1.1% of the Central government workforce, highlighting persistent underrepresentation.

Upholding Constitutional Equality – Denying upward mobility violates the principles of equality and equal opportunity guaranteed under Articles 14, 15, and 16, and the right to a dignified life under Article 21.

Making Quotas Effective – When meritorious PwDs are placed in the general category, it frees up reserved seats for other PwD candidates, thus making the entire reservation policy more effective and ensuring the quota is better utilized.

Fulfilling Global Commitments – As a signatory to the UN Convention on the Rights of Persons with Disabilities (UNCRPD), India is obligated to ensure equal opportunity and non-discrimination.

Legitimizing Reservation – This practice enhances the fairness and public trust in the reservation system, ensuring that quotas act as a "ladder" for empowerment rather than a "cage" that restricts meritorious candidates.

Current Status and Challenges in Implementation

Current Representation of PwDs

Legal Mandate vs. Reality – There is a significant gap between the **4% reservation** mandated by the RPwD Act, 2016, and the actual representation of around **1.1%** in government jobs.

Skewed Representation – PwDs are disproportionately concentrated in lower-level posts, with the highest representation (1.93%) found among **Group C Safai Karmacharis (sanitation workers)**. Representation in senior **Group A** posts is a mere 1%.

Challenges in Implementation

Policy Ambiguity – Despite Department of Personnel and Training (DoPT) clarifications in 2018 allowing upward mobility, ministries often fail to apply this rule consistently.

Incomplete Data – The lack of comprehensive and reliable data on PwD employment makes it difficult to monitor compliance and hold departments accountable.

Certification and Awareness Deficits – A major structural barrier is that less than 40% of PwDs in India possess a Unique Disability ID (UDID), which is essential for accessing reservation benefits.

Legal Framework in India

Rights of Persons with Disabilities (RPwD) Act, 2016 –

1. This is the cornerstone of disability law in India, enacted to align with the **UNCRPD**.
2. It replaced the earlier 1995 Act and expanded the number of recognized disabilities from **7 to 21**.
3. It increased reservation in government jobs from **3% to 4%** and in higher education to **5%**.
4. It also includes strong provisions for accessibility, social security, and the establishment of advisory boards.

Types of Disability-Based Discrimination –

Direct – Explicitly denying an opportunity due to disability.

Indirect – A neutral policy that disproportionately disadvantages PwDs.

Denial of Reasonable Accommodation – Failing to make necessary adjustments.

Systemic – Laws or societal attitudes that are inherently disadvantageous.

Global Context and Best Practices

Global Initiatives – India's efforts are part of a global movement guided by frameworks like the UNCRPD and the OECD Disability Inclusion Framework.

Best Practices –

United Kingdom – The "Disability Confident Scheme" incentivizes employers to hire PwDs.

Singapore – The "Enabling Masterplan 2030" aims to increase the PwD employment rate to 40%.

Canada – The "Accessible Canada Act (2019)" sets binding accessibility standards for federal institutions.

Sustainable Development Goals (SDGs) – PwD empowerment is central to achieving several SDGs, including SDG 4 (Quality Education), SDG 8 (Decent Work), SDG 10 (Reduced Inequalities), and SDG 16 (Justice and Strong Institutions).

The Way Forward

Issue a Binding Directive – The Union Government, through the DoPT and the Ministry of Social Justice & Empowerment, should issue a clear and mandatory notification on upward mobility for all ministries to follow.

Harmonize Service Rules – Central and State service rules must be amended to ensure PwDs receive the same upward mobility benefits as OBC/SC/ST candidates.

Ensure Data Transparency – Disability representation data must be regularly published and audited for accuracy and compliance.

Universal UDID Coverage – The Unique Disability ID (UDID) project must be accelerated to achieve 100% certification, ensuring no eligible person is left behind.

Sensitisation and Training – Training academies like LBSNAA should include modules on disability rights and reasonable accommodation for all civil service recruits.

Create an Independent Oversight Body – A PwD Ombudsman could be established to monitor employment, redress grievances, and ensure compliance with the law.

Conclusion

The Supreme Court has powerfully reaffirmed that "reservation is a ladder, not a cage." Ensuring the upward mobility of meritorious PwDs is not just a matter of policy but a constitutional imperative to convert formal equality into substantive empowerment and uphold the dignity and rights of every individual.

Source – <https://www.thehindu.com/news/national/sc-asks-centre-why-disabled-candidates-are-allocated-reserved-seats-even-when-they-score-above-cut-off-marks/article70040783.ece>