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WP-39376-2025

IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE MANINDER S. BHATTI

ON THE 19th OF NOVEMBER, 2025WRIT PETITION No. 39376 of 2025*PURWESH DHANDE**Versus**THE STATE OF MADHYA PRADESH AND OTHERS*

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Appearance:

Shri Raja Bhaiya Tiwari - Advocate for the petitioner.

Shri Akshansh Shrivastava - Panel Lawyer for the respondent/State.

Shri Ankit Agrawal - Advocate for the respondent Nos. 2 and 3.

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ORDER

This is a petition by the petitioner for a direction to the respondent to issue appointment letter in favour of the present petitioner for the post of Junior Engineer (Trainee) against the reserved category i.e. OBC/VI/OP.

2. It is contended by the counsel that the petitioner in pursuant to an advertisement dated 09.12.2024 issued by the respondent for appointment against the post of Junior Engineer (Trainee), has submitted his candidature. As per Item No.6 of the said advertisement, there were provisions for reservation to the disabled person. The present petitioner is also a disabled person and his disability has been assessed to be to the extent of 60%. Accordingly, the petitioner submitted an application and he was selected and called for documents verification. The petitioner produced the documents during the process of verification. However, vide order dated 22.08.2025, it



is informed to the petitioner that his candidature cannot be considered as the petitioner has not produced the permanent disability certificate, on the contrary, has produced the temporary disability certificate.

3. It is further contended by the counsel for the petitioner that in such a case, though the candidature of the petitioner has been rejected by an order but the petitioner has been informed that in light of a Circular dated 18.12.2024 issued by the Department of General Administration, in the eventuality of non-possession of the permanent disability certificate, he cannot be given joining. It is also contended by the counsel that a perusal of the disability certificate of the petitioner which is contained in Annexure P/4 reflects that the same has been issued on 30.06.2025, with its validity till 06.06.2030. The degree of the disability of petitioner is examined by the Experts after completion of the aforesaid period so mentioned. Such disability certificate has been issued in tune with Rule 28 of the Madhya Pradesh Rights of Persons with Disabilities Rules, 2017. It is contended by the counsel that the issuance of permanent as well as temporary disability certificate depends upon the nature of disability. If there are chances of variation in future, so far as the disability is concerned, a temporary certificate is issued, else a permanent certificate is issued. However, upon verification in future, if there are no chances of any improvement, a permanent disability certificate is issued. However, the temporary certificate so issued in terms of the aforesaid Rules, is admissible for all purposes and the candidature cannot be declined on the sole ground that holder of a temporary disability certificate is not entitled for the benefit of appointment.



In view of the aforesaid, counsel submits that the respondent be directed to issue an appointment letter in favour of the present petitioner against the post of Junior Engineer (Trainee) for the reserved category i.e. OBC/VI/OP.

4. *Per contra*, learned counsel for the respondent Nos. 2 and 3 submits that the present petition filed by the petitioner is liable to be dismissed, inasmuch as in exercise of powers conferred under Section 101 of the Rights of Persons with Disabilities Act, 2016 (hereinafter for the sake of brevity referred to as "Act of 2016"), the State Government has made Rules and in terms of Rule-28 of the Rules of 2017, there exists provisions for issuance of a permanent as well as a temporary disability certificate. As there are two different categories of certificate, a person who is having a permanent disability certificate is only entitled for reservation in employment whereas a person who is holding a temporary disability certificate is not entitled for the same in terms of Rule-28 as well as Rule 12 of the Rules of 2017. The Department of General Administration has also issued a Circular dated 18.12.2024 which is at page no.25 of the petition and in terms of the said Circular only, it has been clarified that the candidates having a permanent disability certificate are only entitled for 6% reservation for the disabled person. Thus, counsel submits that as there exists a Circular dated 18.12.2024 issued by the Department of General Administration which confines the benefit of reservation to the holder of a permanent disability certificate, the said benefit cannot be extended to candidates like the petitioner who is not having a permanent disability certificate. In view of the aforesaid, counsel submits that the present petition filed by the petitioner



deserves to be dismissed.

5. No other point is argued or pressed by both the parties.

6. Heard the rival submissions of both the parties and perused the record.

7. It is first germane to refer to the provisions of Sections 34 and 58 of the Act of 2016 which are reproduced as under:-

"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:

Provided that the reservation in promotion shall be in accordance with such instructions as are issued by the appropriate Government from time to time:

Provided further that the appropriate Government, in consultation with the Chief Commissioner or the State Commissioner, as the case may be, may, having regard to the type of work carried out in any Government establishment, by notification and subject to such conditions, if any, as may be specified in such notifications



exempt any Government establishment from the provisions of this section.

(2) Where in any recruitment year any vacancy cannot be filled up due to non-availability of a suitable person with benchmark disability or for any other sufficient reasons, such vacancy shall be carried forward in the succeeding recruitment year and if in the succeeding recruitment year also suitable person with benchmark disability is not available, it may first be filled by interchange among the five categories and only when there is no person with disability available for the post in that year, the employer shall fill up the vacancy by appointment of a person, other than a person with disability:

Provided that if the nature of vacancies in an establishment is such that a given category of person cannot be employed, the vacancies may be interchanged among the five categories with the prior approval of the appropriate Government.

(3) The appropriate Government may, by notification, provide for such relaxation of upper age limit for employment of persons with benchmark disability, as it thinks fit."

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58. Procedure for certification.—*(1) Any person with specified disability, may apply, in such manner as may be prescribed by the Central Government, to a certifying authority having jurisdiction, for issuing of a certificate of disability.*

(2) On receipt of an application under sub-section (1), the certifying authority shall assess the disability of the concerned person in accordance with relevant guidelines notified under section 56, and shall, after such assessment, as the case may be,—

(a) issue a certificate of disability to such person, in such form as may be prescribed by the Central Government;

(b) inform him in writing that he has no specified disability.

(3) The certificate of disability issued under this section shall be valid across the country."



8. On appreciation of the aforesaid provisions it is clear Section 34 postulates a scheme of reservation for persons with bench mark disabilities. Notably, Section 58 bestows a person with specified disability a mechanism to obtain a certificate of disability certifying the extent thereof.

9. A perusal of the record reflects that the petitioner while submitting his application, produced the disability certificate which is contained in Annexure P/4. The said certificate is reproduced as under:-

"Certificate/UDID No. MP3930319980027816 Date of Issue: 30/06/2025

This is to certify that I/We have carefully examined Purwesh Dhande Son of Jashwant Dhande, Date of Birth 25/08/1998, Gender Male, Registration No. 2339/20000/0250/60027695, Resident of Ward No 12 Gram Pandharwani Lalburra Lalbarra,, Balaghat,, Madhya Pradesh - 481441 whose photograph is affixed above, and I am /we are satisfied that:

(A) He is a case of: Low Vision.

(B) Name of affected body part: LOW VISSION.

(C) The diagnosis in his case is RIGHT EYE MYOPIA LEFT EYE PALE DISL.

(D) He has 60% (in figure) sixty percent(in words) disability and the nature of certificate is Temporary and valid till 06/06/2030 as per the guidelines for the purpose of assessing the extent of specified disability in a person included under the Rights of Persons with Disabilities Act, 2016 notified by Government of India vide S.O.1338(E) dated 12/03/2024."

10. A perusal of Clause-D of the aforesaid disability certificate reflects that the disability of the present petitioner i.e. Right Eye Myopia Left Eye Pale DISL was assessed to the extent of 60%. It was mentioned in the said certificate that it was temporary and was valid till 06.06.2030.



11. As per the guidelines for purposes of assessing the extent of specified disability in a person included under the Act of 2016, a perusal of the Clause-D reflects that the said clause has relevancy with the Rule 28(3) (b) of the Rules of 2017 which is in tune with Section 58 of the Act of 2016, inasmuch as in the cases of issuance of temporary disability certificates, the person concerned is required to be examined again in future in order to ascertain any variation so far as the disability is concerned. Undisputedly, the certificate leaves no iota of confusion that as on date, the petitioner's disability is to the extent of 60%, however, as there are chances of variation in near future, therefore, in terms of Rules-28(3)(b) of the Rules of 2017, a temporary certificate was issued to the petitioner. Rule 28 of Rules of 2017 is reproduced as under:-

"28.Issuance of Disability Certificate.

(1) On receipt of an application the medical authority or any other notified competent authority, shall verify the information provided by the applicant and shall assess the disability in terms of the relevant guidelines issued by the Central Government and after satisfying himself that the applicant is a person with disability shall issue a certificate of disability in his favour in the prescribed form.

(2) The medical authority shall issue the certificate of disability within one month from the date of receipt of the application.

(3) The medical authority after due examination shall:-

(a) issue a permanent certificate of disability in cases where there are no chances of variation of disability over time in the degree of disability, or

(b) issue a temporary certificate of disability in cases where there is any chance of variation over time in the degree of disability and indicate the period of validity.



(4) If any applicant is found ineligible for issuing him the certificate of disability, the medical authority shall inform the reasons in writing to him within a period of one month from the date of receipt of the application."

12. In order to ascertain whether such a disability certificate, entitles a candidate to apply in Government Employment or not, it would be relevant to refer to the provisions of Rule-29 of the Rules of 2017. Rule-29 of the Rules of 2017 provides as under:-

"29. Certificate issued to be generally valid for all purposes.- A person to whom a certificate of disability is issued shall be entitled to apply for facilities, concessions and benefits admissible for persons with disabilities under schemes of the Government and of non Government organization funded by the Government. Such person shall be able to apply under such conditions which are specified in the appropriate schemes made by the Government or specified by instructions."

13. A perusal of the aforesaid reflects that a person to whom a certificate of disability is issued, is entitled for facilities, concessions, and benefits admissible to persons with disabilities under the schemes of the Government and of non Government organizations funded by the Government. The heading of the Rule reflects that a certificate which is issued under the Act is generally valid for all purposes.

14. A perusal of the Section 34 of the Act of 2016 and Rule-29 of the Rules of 2017 reflects that the said provisions do not distinguish between a permanent or a temporary disability certificate. On the contrary, the Rule only refers to the certificate which is issued under the scheme of the Act of 2016 as well as the Rules of 2017 made by the State Government in purported exercise of powers conferred under Section 101 of the Act of 2016. As in terms of Section 34 of the Act of 2016, the petitioner was



entitled to apply for employment, the respondents could not have deprived the petitioner from availing the said benefit of reservation under the garb of Circular dated 18.12.2024 contained at page no. 25 of the petition.

15. The Circular dated 18.12.2024 cannot be read in isolation, on the contrary the same is required to be read along with Section 34 of the Act of 2016 and Rule-29 of the Rules of 2017. There exists no provision under the Act or the Rules which stipulates that a holder of a temporary disability certificate is not entitled for the facilities, concessions, and benefits which are available with such class of persons, by the Government and in view of this matter, the respondents are duty bound to extent the said benefit of reservation to the petitioner and while extending the said benefit, the Circular dated 18.12.2024 issued by the Department of General Administration would not come in way of the respondents.

16. Moreover, the *Delhi High Court in the judgment of Anmol Kumar Mishra vs. Union of India and Others reported in W.P.(c) 13146/2021 with CM APPL. 41448/2021* while dealing with a situation on similar footing, wherein the candidature of the petitioner therein was rejected on the ground that the disability is temporary and likely to improve, appreciated the guidelines issued by the Ministry of Social Justice and Empowerment, Government of India dated 04.01.2018 for evaluation and certification of specified disabilities. Noteworthy, is to mention that the Delhi High Court reflected on Clause 19.2 of the aforesaid guidelines which prescribed that temporary certificates are expressly contemplated if the condition is likely to worsen. The Delhi High Court led emphasis on the liberal construction of



beneficial legislation for furthering the purposes enshrined in their text and observed that the rejection of the candidature of the petitioner therein on such a hyper technical ground would result in giving an unduly restrictive interpretation to the scheme and object of the Act of 2016 and guidelines issued in pursuance thereof.

17. In view of the aforesaid, the present petition stands **allowed**. The respondents are directed to forthwith issue the appointment order of the petitioner within a period of 30 days from the date of production of certified copy of the order passed today.

18. However, considering that the temporary disability certificate issued to the petitioner remains valid until 06.06.2030, it shall be open to the respondents to reassess the petitioner's extent of disability upon the expiry of the said validity period and to take an appropriate decision in accordance with the circumstances and the degree of disability which is to be assessed after validity period.

(MANINDER S. BHATTI)
JUDGE