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Analysis of the Rights of Persons with Visual Disability in the light of Pronouncements of Courts and CCPD in India

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Abstract

This paper discusses the important judgements of Indian Supreme Court and high courts and Chief Commissioner for Persons with Disabilities (CCPD) on the rights of Persons with Visual Disabilities. Visual Disability is covered under the Rights of Persons with Disabilities Act, 2016 and repealed 1995 Act under Blindness and Low Vision. The rights which are upheld by the courts and CCPD are mainly related to scribe facility, employment opportunities, education, accessible environment etc. By and large the provisions of disability legislations and Constitution have been liberally interpreted.

Keywords: Disability, Impairment, Visual, Blindness, Non-Discrimination, Reasonable Accommodation.

Introduction

Constitution of India provides the Right to Equality as one of the Fundamental Rights enshrined in part III of the constitution. Equality signifies that every person should be treated equal before the law. Protection of laws should be available to everyone on an equal basis. If any distinction is to be made, it should have a reasonable nexus or connection with the object sought to be achieved by such distinction.

The Constitution does not provide for mere Formal Equality. It provides for the Substantial Equality which in simple terms means that to provide the level playing field to the disadvantaged sections of the society, special provisions can be made in their favour.

The Constitution in Article 15 provides for certain grounds on which any discrimination to access public places is prohibited. These grounds are race, religion, caste, place of birth, sex or any of them. Article 16 prohibits discrimination in matters of public employment or appointment on the grounds of race, religion, caste, sex, place of birth, descent or residence.

Review of Literature

In *Indra Sawhney & Ors*¹ case, It was held by a majority judgment that even though "backward class (es) of citizens" as used in clauses (4) of Articles 15 and 16 did not cover persons with disabilities, the constitutional scheme and spirit of Articles 14, and clauses (1) of Articles 15 and 16 allowed for reservation and Other kinds of affirmative Action, in favour of persons with disabilities.

In recent case² the Supreme Court however observed that the principle laid down in *Indra Sawhney* is applicable only when the State seeks to give preferential treatment in the matter of employment to certain classes of citizens. The basis for providing reservation for persons with disabilities is physical disability and not any of the criteria forbidden under Article 16(1). Some factors are common to both backward classes and persons with disabilities such as social attitudes and historical neglect etc.

In *Rajive Raturi v. Union of India*,³ the Supreme court held that "to provide persons with disabilities adequate access to all the facilities on the road and transport etc can be treated as infringement of their fundamental rights under Article 19(1) (c) of the Constitution. In the same case, the Supreme Court treated accessibility as a necessary condition for dignified living under Article 21 of the Constitution.

In *Jeeja Ghosh v. Union of India*,⁴ the Court observed:



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"37. The rights that are guaranteed to differently-abled persons under the 1995 Act, 'now 2016 Act' are founded on the sound principle of human dignity which is the core value of human right and is treated as a significant facet of right to life and liberty. ..."

In the same case, the court held that access to information and communication is a precondition for freedom of opinion and expression guaranteed under Article 19 (1) (a) of the Constitution of India.

Disability Rights Jurisprudence evolves around two interrelated principles: Non-Discrimination and Reasonable accommodation.

Non-Discrimination

Non-discrimination with regard to persons with disabilities means that disability should not come in the way in enjoying benefits and opportunities in the various spheres of life such as education, employment, social, cultural, political life etc. In The newly passed Rights of Persons with Disabilities Act, 2016 (RPD Act 2016) which is primarily based on the UN Convention on the Rights of Persons with Disabilities, 2006 (UNCRPD) provides for the Full Legal Capacity to Persons with Disabilities. Section 3 (1) of the act provides that the persons with disabilities enjoy the right to equality, life with dignity and respect for his or her integrity equally with others.

Subsection (3) of Section 3 of RPD Act guarantees, "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."

As per Section 2 (h) of the act, discrimination means, "any distinction, exclusion, restriction on the basis of disability which is the purpose or effect of impairing or nullifying the recognition, enjoyment or exercise on an equal basis with others of all human rights and fundamental freedoms. In the political, economic, social, cultural, civil or any other field and includes all forms of discrimination and denial of reasonable accommodation;"

Reasonable Accommodation

Disability is also a Human Diversity. Disability is the result of physical, social, attitudinal barriers rather than the physical impairment. Section 2 (c) of the RPD Act, 2016 defines Barrier as, "any factor including communicational, cultural, economic, environmental, institutional, political, social, attitudinal or structural factors which hampers the full and effective participation of persons with disabilities in society".

The special needs of various types of disabilities should be taken into account in areas such as Education, Employment, Transports and Buildings, Information, Communication and Services, Participation in social, cultural, political life etc.

Section 2 (y) of RPD Act 2016 defines Reasonable Accommodation as "necessary and appropriate modification and adjustments, without imposing a disproportionate or undue burden in a particular case, to ensure to persons with disabilities the enjoyment or exercise of rights equally with others;"

This paper will analyse the judgements of Supreme Court and high courts and Chief Commissioner for Persons with Disabilities (CCPD) established under the 1995 Disability Act and

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continued by 2016 Act with modifications which deal with the rights of persons with visual disability. The principles laid down in these cases however are not limited to persons with visual disability only. They have a wider implications and applicable to every type of disability. Similarly the principles laid down in cases decided with respect to other disabilities are also applicable to persons with visual disability. The cases related to visual disability are selected for the purpose of analysis only. The Rights of Persons with Disabilities Act, 2016 enumerates Blindness and Low Vision as disabilities. Repealed Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act 1995 also considered them as persons with disabilities. The paper also analyses the cases which are not strictly covered under disability legislations however where persons have some kind of visual impairment such as vision loss in one eye etc.

Objective of the Study

1. Categorise in broad terms the rights which are upheld by the courts and CCPD in India.
2. Examine their scope and ambit.
3. Discuss the prospects of expansion of these rights after coming into force of the new 2016 disability law.

Non-Discrimination in appointment

The Supreme Court in *Jai Shankar Prasad Vs State of Bihar*⁵ held that blindness per se cannot be treated as a ground of disqualifying a person to hold a constitutional position such as the member of the Public Service commission.

In this case the appointment of a completely blind person as a member of Bihar State Public Service Commission was challenged on the ground that he was unfit on the basis of physical infirmity by virtue of Clause (3) of Article 317 of the Constitution. The court observed that except the external appearance of the candidates appearing before him, he was able to ascertain the required merits or demerits of the candidates.

With regard to the Infirmity as stipulated in the constitution the court observed, "By 'infirmity of body' what is spoken of in sub-clause (c) of clause (3) of Article 317 of the Constitutions an infirmity which disables the member from discharging his functions as such member effectively. It is not every infirmity of body or every loss of use of every limb of the body. The defect or deficiency must be such as would disable the member from carrying out his duties satisfactorily and consistent with the trust reposed in him. The said infirmity further must necessarily be such as has arisen after the appointment and not the one which existed at the time of the appointment, unless of course, the Government was unaware of the same at the time of appointment"

In *Amita v. Union of India*⁶ the application of a visually disabled lady for the post of probationary officer in the bank was rejected on the ground of her disability.

The court held that since the petitioner satisfied the conditions of appointment, the rejection of the application on the ground of disability was not

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on reasonable ground and was arbitrary and violative of Article 14 and 16 of the Constitution.

The court noted the technological development such as access technology which enables the blind persons to use computer independently.

In *Nandkumar J. Dalvi v. Employees State Insurance Corporation*⁷ the complainant who became visually impaired after rendering 14 years of service with the Respondent, submitted that he was denied promotion to the post of Superintendent on the ground of his Visual Impairment.

CCPD made the following observations:-

"14. ... the DPC had the ACRs of the Complainant on his performance of the job he was assigned. It also had the knowledge that he was not doing the work that his counterparts were doing. It needs to be noted that the Respondent themselves deployed the Complainant on particular kinds of jobs without his asking for it. He apparently performed the task assigned to him satisfactorily as nothing adverse was communicated to him nor the reporting/reviewing officers graded him 'below average'. Therefore, with the inputs available in his ACRs, it was clearly his disability because of which the DPC decided to grade him 'below average' and declared him unfit for promotion. Such a decision would amount to discrimination on account of disability, as it was the Respondent who decided to assign him a particular work.... Further, as submitted by the Respondent, the post of Insurance Inspector, Manager Grade-II and Superintendent are interchangeable. Therefore, it should not be impossible for the Respondent to post him in the office as Superintendent not involving the job of an Insurance Inspector".

Writing in exam

In *National Federation of Blind v. Union Public Service Commission and Ors*⁸ an NGO of Visually Disabled persons filed the petition under Article 32 of the Constitution seeking direction to the Union of India and the Union Public Service Commission to permit the blind candidates to compete for the Indian Administrative Service and the Allied Services and to provide them the facility of writing the civil services examination either in Braille-script or with the help of a Scribe.

The court directed the respondent to provide such facility. The court said:

"11. So far as the claim of visually handicapped for writing the civil services examinations, in Braille-script or with the help of Scribe, is concerned, we are of the view that their demand is legally justified".

In *Shri Gopal Sisodia v. State Bank of India, Mumbai and others*⁹ the Applicant requested that comprehensive policy for the conduct of written examinations for persons with disabilities be issued to mitigate the sufferings by persons with disabilities CCPD observed as under: ""

That it goes without saying that in the absence of such uniform and comprehensive guidelines, Persons with Disabilities including the persons with blindness and low vision continued to be routinely subjected to prolonged and pervasive

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hardship and disadvantage with the result that more often than not, many candidates with disabilities have to run from pillar to post getting to fix various problems relating to taking off examinations by them such as issues around amanuenses, use of low vision aids, use of computers, extra time etc.

Alternative Questions for Diagrams and Figures and Descriptive Explanation of Graphs

In *Ashwani Agarwal v. Secretary, Department of Education*¹⁰ this case highlights the various difficulties faced by the blind students with regard to attempting questions based on diagrams and figures, issued relating to scribes for writing answers scripts etc.

The complainant requested CCPD to advise the Ministry of Human Resource Development to issue instructions to various examination boards and agencies conducting class X and class XII examination. Directing them to issue instructions to the paper setters to offer alternative questions in lieu of questions with diagrams and figures. The alternative questions should be of equal value to the question containing diagrams and figures.

All questions based on figures or diagrams in the paper be provided with an alternative question of equal marks from the syllabus which blind students can attempt.

Other Accommodations

In *Nand Kumar Narayanrao Ghodmare v. State of Maharashtra and Others*¹¹ where the appellant was selected by the Public Service Commission but was not appointed due to his colour blindness. There were 35 posts in the Department and only five posts required perfect vision without colour blindness.

The court directed the government to consider the case of appellant to be appointed to any of the post other than the 5 posts where the perfect vision is required.

In *Shri J.L. Kaul, Secretary General, All India Confederation of the Blind v. Staff Selection Commission*¹² the complainant submitted that the candidates with blindness and low vision were not provided computers loaded with any screen reading software and the key board of the computers for Hindi medium candidate was different from the normally used one. That put the candidates with Visual Impairment to serious disadvantage.

The CCPD directed the SSC to provide appropriate Hindi and English Screen Reading Software for the purpose of skill test of Stenography and typing in all its examinations in future to such candidates.

In *Smt. Nirupama J. and Others*¹³ v. NTPC Limited through: Executive Director (HR) NTPC New Delhi, the complainants challenged the scheme of expenditure for local travel for official purposes which provided for reimbursement of the petrol expenses only if the employee has a vehicle registered in his/her name and he/she holds a valid driving license. Since persons with various types of disabilities neither can drive nor can get a valid driving license even they may be owning vehicles, they are not being reimbursed the conveyance expenses.

The CCPD observed,

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"10. ... we feel that NTPC, by their Act of institutionalizing

discriminatory and exclusionary norms is depriving its employees with disabilities the option and the facility of getting the reimbursement of expenditure for local travel for official purposes and have acted against the established and recognized norms of propriety and natural justice.

Complainants are not asking for any extra and special favour. All that they are asking for is a modification in their existing norms so that the self valid driving license is not mandatory for an employee with disability for availing the facility of reimbursement of expenditure of local travel for official purpose ...".

Education Matters

In *Umesh Kumar v. State of Haryana and Others*¹⁴ the petitioner took admission to the 1st year Bachelor of Engineering Mechanical course. The Ophthalmologists examined the petitioner with and without glasses and found him fit for the course. The chief medical officer however issued a certificate stating therein that on the basis of number of classes in both eyes the petitioner was unfit for the course. As a result, college cancelled his admission to the course. The court observed as under:

"We live in the scientifically advanced age. If with medical aids particularly by provision of glasses or contact lenses the vision can be corrected to the standard prescribed, there is no reason why the candidate with the vision so corrected should be denied to the Engineering course. No reason has been assigned by the respondent as to why a candidate with power glasses above to 2.5 power be denied admission to Engineering course when such power glasses correct the defective reason up to the required standard."

In *Sanjay Kumar Shah v. Mahatma Gandhi Kashi Vidyapeeth*¹⁵ the complainant, a visually disabled student was denied admission in B.Ed course on the ground that Special facilities for imparting education and training along with evaluation for visually handicapped are not available in the University. After the intervention of CCPD the complainant was provisionally permitted to appear in the entrance examination. The CCPD observed that the requirement of provision of additional facilities etc cannot be the ground for not allowing admission. Suitable modifications in the examination system and restructuring of curriculum for the benefit of children with disabilities should be made. The UP government; NCTE and UGC were advised to issue necessary directions to this effect.

In *Amar Jain v. University of Petroleum & Energy Studies*¹⁶ the complainant, a person with Visual Impairment, filed his complaint alleging that University of Petroleum & Energy Studies, Dehradun was not allowing him to appear in the entrance examination for 5 years LLB Course on the ground of his disability. He stated that he needed facilities of scribe to write the exam. The respondent pleaded that since it was a private university, it was not bound by the provisions of the disability legislation. The respondent however later showed its willingness to

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extend the benefit of scribe and also allowed the complainant to sit for the exam.

CCPD observed inter alia that in accordance with section 9 of the University of Petroleum and Energy Studies Act, 2003 and the principles of equality enshrined in Articles 14, 15 and 16 of the Constitution of India, the respondent University cannot discriminate against person with disabilities for admission in any course of the University or its constituent colleges on merit. The case was disposed off with direction to the respondent to consider Persons with Disabilities on merit for

Admissions and extend them benefit of relaxations in age etc and provide appropriate interfaces to ensure level playing field to them.

Reservation

In *Government of India & Anr v. Ravi Prakash Gupta & Anr*¹⁷ a Visually Disabled person cleared the Civil Services Examination in the year 2006. The contention of the respondent was that since the PWD Act, 1995 came in to force in 1996 providing a statutory mandate for reservation of 3% of the posts available for persons with disabilities, such reservation ought to have been in force with effect from the date on which the Act came into force. If the vacancies were to be considered from the year 1996, than instead of one vacancy been declared for the year in question, there should have been atleast 7 vacancies from the reserved categories of disabilities.

The Supreme Court observed, "the submission made on behalf of the Union of India regarding the implementation of the provisions of section 33 of the Act, only after identification of posts suitable for such appointment, under section 32 thereof runs counter to legislative intent with which the Act was enacted. To accept such a submission would amount to accepting a situation where the provisions of section 33 of the aforesaid Act, could be kept deferred indefinitely by bureaucratic inaction."

In *All India Confederation of the Blind v. Govt. of NCT of Delhi and Ors*¹⁸ the court held that a candidate who is otherwise high up in the merit list cannot be adjusted against the reserved seats and are to be appointed in the general category.

In *Sambhavana v. Delhi University*¹⁹ the Petition was filed in public interest seeking directions against the University of Delhi and colleges affiliated with it to put in place a hundred-point roster for recruitment of persons with disability and to determine the number of vacancies available for such persons. The High Court stayed all further recruitment in colleges that had not provided reservation for Persons with Disabilities till they filled-up the backlog in the 3% quota for Persons with Disabilities.

Right of Uneducated Employee to be informed about his/her Rights

In *Bhagwan Dass & Anr. V. Punjab State Electricity Board*²⁰ it was held that in case of an uneducated class IV employee who become disabled, it is the duty of the employer to inform him about his rights. Appellant was a class IV employee. He was not aware of any legal protection available to him and apparently believed that the blindness would cause him to lose his job, the source of livelihood of his

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family. The enormous mental pressure under which he would have been at that time is not difficult to imagine. In those circumstances it was the duty of the superior officers to explain to him the correct legal position and to tell him about his legal Rights.

Other cases

In *Shri Ashwini Kumar Gupta, Ms. Shweta Kaur Chhatwal v. State Bank of India, Mumbai, State Bank of India, Lucknow, State Bank of India, New Delhi, and Ministry of Finance, New and others*²¹ The complainants qualified for the post of Probationary Officer in the respondent organisation. The respondent cancels their appointments on the ground that their one eye was non-functional.

The CCPD informed the respondents that the post of Probationary Officer as well as the clerical posts in the banks are identified for persons with disabilities including those with blindness and low vision. Therefore it would not be justified to deny appointment of one-eyed persons to those posts. The respondent informed however that the policy in this respect has been formulated and approved by the Executive Committee of Central Board and issued letters of appointment to complainants.

In *Sonika v. LIC Housing Finance Limited*²² the complainant applied for the post of Junior Executive Assistant in the respondent organisation. CCPD agreed with the respondent that the one-eyed person with 30% visual impairment was not covered under the definition of persons with disabilities under the Act. However it could not be overlooked that cancellation of the appointment in respect of the complainant on the ground that she was one-eyed person against a post that had been found suitable for even blind/low vision person had resulted in injustice.

In *Ravi Kumar Arora Vs. Union of India and Another*²³ the petitioner qualified the Civil Services Exam and received intimation for joining the foundation course. In order to improve his ranking the petitioner appeared in the Preliminary Examination for the next year and qualified it.

The petitioner had to undergo a second medical examination and was informed that he was disqualified on account of substandard vision. He immediately represented and requested that he should be treated as a disabled person and be accordingly be appointed against the suitable vacancy/post which was required to be identified under the provisions of the Act.

The request of the petitioner for being accommodated in the handicapped category was however rejected. The result of this was that he was neither being treated under the handicapped category as a disabled candidate nor as a general candidate.

The court held that the petitioner is entitled to be appointed to a post in the category 'A' Services as per his merit and seniority based on the rank obtained by him for the Examination of the previous year when he was given the joining letter and be appointed to the Indian Postal Services or an equivalent Service. He was also to be treated as having joined in service along with his batch-mates for purposes of determination of his seniority, monetary emoluments and promotions.

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In *Ms. Jasreen Singh v. Bharat Petroleum Corporation Ltd. Mumbai*²⁴ the complainant who had 100% Hearing Disability was denied appointment for the post of Management Trainee "HR" in the respondent organisation as she was found to have myopia above (-) 4.00 D. After LASIK Surgery, her vision is 6/6. The said post has been identified as suitable for persons with Hearing Impairments as well as for persons with Visual Impairment.

CCPD observed that in respondent organisation, a far more stringent standard for vision was being applied to the post of Management Trainee (HR) than the post of flying Pilots in Indian Air Force and to various posts in Indian Oil Corporation. Therefore it might not be justified to apply the stringent medical standards as are being followed by a Police Force like ITBP especially in case of a post identified as suitable for persons with disabilities. If LASIK surgery for correction of vision can be permitted for pilots, the same should not be denied to the complainant. If person with blindness can perform the function of the post there was no justification to deny appointment to the complainant against a reserved vacancy for persons with Hearing Impairment on the ground that she had myopia and had undergone LASIK surgery.

Banking Services

In pursuance to a judgement by the CCPD²⁵ the Reserve Bank of India²⁶ advised all the banks to offer banking facilities including all the banking facilities such as cheque book facility including third party cheques, ATM facility, Net banking facility, locker facility, retail loans, credit cards etc without any discrimination and also assist them in withdrawal of cash and other banking facilities. In the said judgement, the CCPD held that visually impaired persons cannot be denied these facilities on the possibility of risk in operating / using the said facility, as the element of risk is involved in case of other customers as well.

In *Anubha Bhargava v. Union of India and Ors*²⁷ the petitioner, a Convent educated commerce graduate and Computer literate was a visually challenged girl who was appointed as a Receptionist under the Physically Handicapped Category, lost her eye sight during employment. It was brought to the notice to the court that she could not read Newspapers which carry objective questions and answers by way of puzzles and other materials. She did not watch TV, where she could benefit from the programmes especially the one which enhance General Knowledge.

The Court Passed The Following Directives:

1. The petitioner was entitled to be exempted from appearing in the written test.
2. On the basis of service record, her case for regular employment should be considered. She should be given the job which she can conveniently handle keeping in view her aforesaid disability. Though she became totally blind when she was still in service, she continued to discharge her duties as a Receptionist to the satisfaction of her employer. Therefore, it is not a case where the petitioner will not be able to perform any duties.

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In *Godawari Bai v. Delhi Development Authority*²⁸ the Court directed the respondent Authority to make an out of turn allotment to the petitioner who was blind.

Non-discrimination in Insurance Matter

The Delhi High Court in *Vikas Gupta v. Union of India and Anr*²⁹ has held that Persons with Disabilities are entitled to the same amount of insurance coverage as available to other people. No extra amount of premium can be charged from them only on account of disability. The petitioner prayed for the issuance of directions to the respondent Postal Life Insurance Directorate, to keep the maximum sum assured for Persons with Disabilities at par with non-disabled persons and to reduce the premium for Persons with Disabilities by bringing it at par with that for non-disabled persons.

The court observed that the material resources of the community are required to be so distributed as best to sub serve the common good. Though a contract of insurance is a bilateral agreement on human life upon payment of premia but the insurer is not entitled to impose unconstitutional conditions which deny the right of entering into the contract, limiting only to a class of persons under a particular policy. Insurance being a social security measure should be consistent with the constitutional animation and conscience of socio-economic justice adumbrated in the Constitution. The court directed the respondents to make suitable changes in the policy in the light of the above observations.

Accessible Environment to Live with Dignity

In *RAJIVE RATURI VERSUS UNION OF INDIA AND OTHERS*³⁰ the Court issued direction to make buildings, transports, roads, railway stations, airports, websites and public documents accessible in a time bound manner. A Public Interest Petition was filed for proper and adequate access to public places. to meet the needs of persons with disabilities especially visually disabled persons in respect of safe access to roads and transport facilities.

In *Union of India V. Devender Kumar Pant*³¹ the Respondent was selected for the higher post of Chief Research Assistant in the Research Designs and Standards Organisation (RDSO), Ministry of Railways and by an order, he was promoted to the said post with the condition that his promotion will be effective from the date of submission of fitness certificate in B-1 medical category.

According to the guidelines, the main distinction between B1 and B2 medical categories was that colour perception was a requirement prescribed for B-1 category but not for B2 category. The respondent filed objections contending that in the existing RDSO environment, the nature of work prescribed for the posts of JRA, SRA and CRA is the same, and as he has already cleared for B2 medical category, it is not necessary for him to secure fitness in the higher medical category of B1.

The court held that, "if the disability will affect the discharge of functions or performance in a higher post or if the disability will pose a threat to the safety of the co-employees, members of the public or the employee himself, or to the assets and equipments of the employer And promotion was denied on these

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grounds, then it is not denial of promotion merely on the ground of disability, but is denial of promotion by reason of the disability plus something more, that is adverse effect of the disability upon the employee's performance of the higher duties or functions attached to the promotional post."

Similarly in a recent case³² the Supreme Court considered as legitimate to prescribe 40-50 per cent visual and hearing disability for a judicial officer. The Court observed, "A judicial officer in a State has to possess reasonable limit of the faculties of hearing, sight and speech in order to hear cases and write judgments and, therefore, stipulating a limit of 50% disability in hearing impairment or visual impairment as a condition to be eligible for the post is a legitimate restriction i.e. fair, logical and reasonable."

It is submitted that this judgement is a deviation from the progressive approach adopted by the Court who is reflected in the judgements discussed earlier. The Court seems to have overlooked the fact that due to the advancement in technology, a number of visually disabled persons are discharging judicial functions successfully. In India also recently Rajasthan High Court allowed a totally visually disabled person to hold the position of a Civil Judge. It may happen that in some cases the disability of a person may come in the way of performing duties. In such cases, the person may be posted to such positions where he/she can discharge his duties effectively.

Further, this judgement was pronounced after coming into force of the RPD Act of 2016 which introduces the concept of reasonable accommodation. It is the duty of every employer to provide individualised accommodation to an employee with disability. Court should have considered whether or not the person would have been able to perform the job after such accommodation.

Conclusion

The above analysis shows that by and large the people with visual disabilities have been given relief. A large number of cases have come on employment related matters. The Supreme Court has found them suitable to hold constitutional position as well as other employments such as Civil Services, Probationary Officers etc. It has been held that where the employee is class iv less educated, it is the duty of employer to uprise him/her about the rights on acquiring disability. The court however held that where disability puts at risk the employee and the fellow employees, the promotion can be denied. The Court has held that Accessible Environment is sine qua non for living a Dignified Life as guaranteed under Article 21 of the Constitution. In some cases, the court took into account the technological advancement such as software for using computer etc. In a case the Delhi High Court decided against the practice of charging higher premium by insurance company. Punjab and Hariyana High Court allowed admission to the engeneering course where the vision could be corrected with the aid of lenses.

CCPD has also been very liberal in providing relief. Infact majority of cases have come before fit. In a number of cases it adopted conciliatory approach which helped in reaching the settlement accepted to all the

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parties. It directed the Department of Disability Affairs to issue comprehensive guidelines for writing exams. It directed to provide alternatives for questions based on diagrams and figures and textual description of graphs. It gave relief to a student who was denied admission on the ground that the facilities for visually disabled students are not available in the university. In some cases it directed the employers to relax standard of vision.

Courts and CCPD provided relief in cases which were not covered by the Act such as vision loss in one eye, myopia etc. Supreme Court provided relief to the coloured blind persons. It also applied the principles of disability legislation while holding that the promotion can be denied if disability puts at risk the life of the employee and colleagues.

The Rights of Persons with Disabilities Act, 2016 which replaced 1995 Act defines rights in a broader term. For example (Accessibility) as per the Act, includes: Physical Environment, Information, Communication, Services, Tactile Buttons in consumer items etc. Besides this, the Supreme Court has started placing reliance on the Convention on the Rights of Persons with Disability and foreign judgement in order to broaden the scope of the law. Now a days, more and more people have started approaching courts for enforcement of their rights and persons with disabilities are no exception. Hence it is expected that in the future to come, new dimensions will be added to Disability Rights Jurisprudence.

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