

\$~11

\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 65/2017**

ASHISH KUMAR VERMA ..... Petitioner  
Through: Mr. Rakesh Kumar Singh, Mr. Ashok  
Anand and Mr. Somanatha Padhan,  
Advocates

versus

UNION OF INDIA & ORS: ..... Respondents  
Through Mr. Vivek Goyal, CGSC

**CORAM:**  
**JUSTICE S.MURALIDHAR**  
**JUSTICE TALWANT SINGH**

**ORDER**  
**30.01.2020**

%

1. Two issues were sought to be clarified during the hearing today by Mr. Goyal by producing documents. Firstly, he sought to demonstrate that after the decision of the Supreme Court in *Government of India through Secretary v. Ravi Prakash Gupta (2010) 7 SCC 626*, backlog vacancies in the PWD category, including the LDCP, VI & HI sub-categories, were calculated. Approximately 18 vacancies were identified, which were spread across the years 2006 – 2008 and approximated to 3% of the aggregate vacancies advertised till then.

2. On instructions, he states that all these backlog vacancies were filled up even before the CSE, 2011 took place.

3. He has also placed reliance on a DoPT's OM dated 29<sup>th</sup> December, 2005

which explains the procedure for computing reservation for persons with disabilities in each of the sub-categories – LDCP, VI and HI. Paragraph 4 of the said OM talks of “identification of jobs/posts” and refers to an earlier notification dated 31<sup>st</sup> May, 2009 of the Ministry of Social Justice and Empowerment (‘MSJE’), which purportedly identified the jobs/posts suitable to be held by PWD.

4. The third aspect discussed was the suitability of the Petitioner for being allotted to IRS (C & CE) or IRS (IT). The Court’s attention was drawn by counsel for the Petitioner to an OM dated 4<sup>th</sup> January, 2014 of the MSJE, Department of Disability Affairs, where, *inter-alia*, the view taken was although the posting in IRS (C & CE) would involve a lot of field postings, the Petitioner could still be considered for appointment “only if the Cadre Controlling Authority (‘CCA’) can exempt him from field postings throughout his career.” It is not clear whether after this view of the MSJE, the matter was further considered by the Ministry of Finance, the CCA for the IRS (IT) and IRS (C & CE).

5. The Court directs the Respondent to file a further affidavit explaining:

- i. The manner of determining the backlog vacancies vis-à-vis each of the sub-categories of PWD after the decision in ***Ravi Prakash Gupta*** (*supra*).
- ii. Whether in fact these backlog vacancies got entirely filled up by the CSE, 2008 and if there were no backlog vacancies from 2009 onwards up to CSE, 2011. How were the backlog vacancies filled up and by

whom?

- iii. If the matter of the identification of jobs/posts been revisited after the issuance MSJE notification dated 31<sup>st</sup> May, 2001. Copies of all such notifications be produced.
- iv. What, if any, further decision has been taken pursuant to the views expressed by the MSJE on 4<sup>th</sup> January, 2014 concerning the allocation of an appropriate service to the Petitioner on the basis of CSE, 2011.

6. The affidavit be filed within four weeks with an advance copy to counsel for the Petitioner who is permitted to file a response thereto before the next date.

7. List on 30<sup>th</sup> March, 2020.

**S. MURALIDHAR, J.**

**TALWANT SINGH, J.**

**JANUARY 30, 2020**

mw