

2026 LiveLaw (SC) 237

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

VIKRAM NATH; J., SANDEEP MEHTA; J.

SLP (Civil) Diary No. 43728/2025; March 12, 2026

SUDHANSHU KARDAM versus COMPTROLLER AND AUDITOR GENERAL OF INDIA AND ORS.

Rights of Persons with Disabilities Act, 2016 – Appointment to Public Posts – Suitability of Posts for Mental Illness and Specific Learning Disabilities (SLD) – Change in Rule Position during Pendency of Litigation – The Supreme Court directed the Comptroller and Auditor General (CAG) to accommodate candidates suffering from 'mental illness' and 'Specific Learning Disability' (SLD) in Group 'C' posts - Although the posts of 'Auditor' were initially identified as unsuitable for these specific benchmark disabilities in 2018, a subsequent Gazette Notification dated 04.01.2021 by the Ministry of Social Justice and Empowerment expressly identified Group 'C' posts as suitable for such categories – Supreme Court directed the Staff Selection Commission (SSC) to forward the dossiers of the candidates within two weeks - It further ordered that if the posts advertised in 2018 are already filled, the respondents must create supernumerary posts to accommodate the candidates. [Paras 17-21]

For Petitioner(s): Mr. Rahul Bajaj, Adv. Ms. Sarah, Adv. Mr. Ayyam Perumal Karthik M., AOR

For Respondent(s): Ms. Archana Pathak Dave, A.S.G. Mr. Ishaan Sharma, Adv. Mr. Madhav Sinhal, Adv. Mr. Kamal Diggpaul, Adv. Ms. Harshita Choubey, Adv. Mr. Mahendra Kumawat, Adv. Mr. Amrish Kumar, AOR Mr. Vaibhav Dwivedi, Adv. Mr. Abhishek Jain, Adv. Mr. Anil Kaushik, A.S.G. Pranjali Singh, Adv. Aashna Gill, Adv. Nachiketa Joshi, Adv. Diwakar Sharma, Adv. Aastha Singh, Adv. Mr. Yogesh Vats, Adv. Dr. N. Visakamurthy, AOR Rajeshwari Shankar, Adv. Padmesh Mishra, Adv. Mr. S.n.terdal(aor), Adv.

ORDER

1. Heard.
2. Application for impleadment is allowed.
3. Leave granted.
4. The instant appeal by special leave arises from the judgment and order dated 29th May, 2025 passed by the High Court of Delhi¹ in Writ Petition (C) No. 5904 of 2023.
5. In the year 2018, respondent No.2 - Staff Selection Commission² initiated a process to fill various Group 'B' and Group 'C' posts in different Ministries / Departments /Organisations under the Government of India. Pursuant to the tentative list of vacancies determined on 27th December, 2019, the Common Graduate Level Examination-2018³ vacancies were notified, wherein two vacancies were earmarked for the post of 'Auditor' in the office of the Comptroller and Auditor General of India⁴ under the 'Other PwD' category.
6. Shri Amit Yadav, respondent No. 3 herein, was an aspirant for the post of 'Auditor' (Post Code D33) in the Staff Selection Commission's Combined Graduate Level

¹ Hereinafter, referred to as the "High Court".

² For short, 'SSC'.

³ For short, 'CGLE-2018'.

⁴ For short, 'CAG'.

Examination, 2018⁵. He applied under the category of ‘Persons with Disabilities - Other⁶’ as well as under the Other Backward Class category in the said examination.

7. He was possessed of a valid disability certificate dated 2nd May, 2018 issued by the Department of Empowerment of Persons with Disabilities⁷, Ministry of Social Justice and Empowerment, Government of India, as per which he was suffering from ‘mental illness’, with the degree of disability assessed at 55%.

8. R3 - Shri Amit Yadav successfully cleared the Tier-I and Tier-II stages of the SSC CGLE-2018. Thereafter, the Tier-III stage was conducted and the result thereof was declared on 30th September, 2020, qualifying candidates for the Skill Test/Document Verification stage, i.e., Tier-IV (the final round of the said examination). He was thereafter required to indicate his preference for eligible posts, and accordingly, he opted for the post of ‘Auditor’ (Post Code D33). The final list of vacancies was uploaded on the website on 15th March, 2021, pursuant to which R3- Shri Amit Yadav was recommended for appointment to the post of ‘Auditor’ (D33).

9. On 28th September, 2021, the CAG declared a State/Office Allocation List. It was indicated in the said list that the dossiers of certain candidates, including that of R3 – Shri Amit Yadav, were being returned to the SSC on the ground that the post of ‘Auditor’ had been identified as not suitable for Persons with Benchmark Disabilities⁸ suffering from ‘mental illness’, the category against which R3 – Shri Amit Yadav had applied and was recommended. The rejection of the candidature of R3 – Shri Amit Yadav was thereafter formally communicated to him by a letter dated 30th September, 2021.

10. Being aggrieved, R3 – Shri Amit Yadav submitted a detailed representation dated 29th September, 2021 to the SSC, asserting that the rejection of his candidature was arbitrary. He also lodged two grievances before the Department of Personnel and Training⁹ on 8th October, 2021, followed by an e-mail dated 23rd October, 2021 reiterating his eligibility and requesting reconsideration of his case for appointment in the subject recruitment process. However, no affirmative response was forthcoming, upon which, R3 – Shri Amit Yadav preferred Original Application No.339 of 2022 before the Central Administrative Tribunal, Delhi Bench¹⁰, seeking appointment by invoking the provisions of the Rights of Persons with Disabilities Act, 2016¹¹.

11. In the proceedings before CAT, R3 – Shri Amit Yadav relied upon Gazette Notification No.3816/2020-DD-III dated 4th January, 2021 issued by the Ministry of Social Justice and Empowerment, DEPwD. It was his case that the said notification expressly included ‘mental illness’ benchmark disability as suitable for the post of ‘Auditor’.

12. The Tribunal allowed the said Original Application by the final order dated 23rd January, 2023, directing respondent No.1 - CAG to constitute a Medical Board for assessing the fitness of R3 – Shri Amit Yadav to discharge the duties associated with the post of ‘Auditor’. The Tribunal further directed that in the event R3 – Shri Amit Yadav is found fit by the Medical Board, he shall be offered appointment to the post in question.

13. Respondent No.1-CAG assailed the said order by filing the captioned writ petition before the High Court. The Division Bench of the High Court interfered with the order

⁵ For short, ‘SSC CGLE’.

⁶ For short, ‘Other PwD’.

⁷ For short, ‘DEPwD’.

⁸ For short, ‘PwBD’.

⁹ For short, ‘DoPT’.

¹⁰ Hereinafter, referred to as the “CAT”.

¹¹ For short, ‘RPwD Act’.

passed by the Tribunal and set aside the same. Consequently, the official communication dated 30th September, 2021, whereby the dossier of R3 – Shri Amit Yadav had been returned, stood restored.

14. The appellant herein, being a PwD candidate placed at par with R3 – Shri Amit Yadav and claiming to be meritorious and belonging to the Scheduled Caste category suffering from Specific Learning Disability (SLD) of mixed scholastic skills, assessed at more than 40%, thereby falling under Category ‘D’ benchmark disabilities, filed an application bearing CM Appl No.9669 of 2024 before the High Court seeking impleadment/intervention in W.P. (C) No. 5904 of 2023. The appellant asserted *inter alia* in the I.A. that he had assailed the very same communication dated 30th September, 2021 by filing O.A. No. 2563 of 2021 before the CAT, which was pending consideration. He thus apprehended that the disposal of W.P. (C) No.5904 of 2023 by the High Court might have an adverse bearing on his pending original application before the CAT. The I.A was allowed *vide* order dated 16th February, 2024.

15. Be that as it may, pursuant to the writ petition having been allowed by the High Court *vide* judgment and order dated 29th May, 2025, the appellant Sudhanshu Kardam approached this Court by way of an application seeking permission to file the special leave petition.

16. Notice was issued on the application seeking permission to file the special leave petition, as well as on the special leave petition and the application for impleadment, on 13th August, 2025. Thereafter, arguments were heard *in extenso* on 6th January, 2026, on which date this Court passed the following order: –

“1. We have heard Mr. Rahul Bajaj, learned counsel appearing for the petitioner, Ms. Archana Pathak Dave, learned Additional Solicitor General for respondent no.1, and also Mr. Amit Yadav, respondent no.3, who appears in-person through video conferencing.

2. After detailed arguments, Ms. Archana Pathak Dave, learned Additional Solicitor General, sought two weeks’ time to obtain instructions in the matter with regard to accommodating the petitioner and respondent no.3 in appropriate categories in light of the notification dated 04.01.2021 issued by Ministry of Social Justice and Empowerment.”

17. *Ex facie*, upon hearing the submissions advanced by Mr. Rahul Bajaj, learned counsel representing the appellant, and Ms. Archana Pathak Dave, learned ASG, this Court was satisfied that the appellant herein could be considered for appointment in the appropriate category in light of the Gazette Notification dated 4th January, 2021 issued by the Ministry of Social Justice and Empowerment, DEPwD (*Divyangjan*), which is reproduced below:-

“MINISTRY OF SOCIAL JUSTICE AND EMPOWERMENT

[Department of Empowerment of Persons with Disabilities (Divyangjan)] NOTIFICATION

New Delhi, the 4th January, 2021 No. 38-16/2020-DD-III — Whereas Section 33 of the repealed Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 (hereinafter, after referred as repealed Act) provided for reservation of not less than 3% for persons with disabilities in the three categories namely, (i) locomotor disability including cerebral palsy, (ii) visual impairment (low vision & blindness) and (iii) hearing impairment.

2. And whereas, section 32 of the repealed Act mandated the appropriate Government to identify posts to be reserved for persons with disabilities and review such list at periodic interval not exceeding three years.

3. And whereas, in pursuance of the above provisions of the repealed Act, the Central Government last notified the list of posts suitable for persons with disabilities through notification No. 16-15/2010-DD-III dated 29th July, 2013.

4. And whereas, the Ministry of Social Justice and Empowerment, Government of India, in pursuance of the provisions of sections 32 and 33 of the repealed Act (since repealed on 15.06.2017) had constituted an Expert Committee on the 19th November, 2015 under the chairpersonship of the Secretary, Department of Empowerment of Persons with Disabilities to review the list of Central Government posts identified suitable for Persons with Disabilities. Copy of the said order is at Annexure-A.

5. And whereas, the Expert Committee met on the 9th December, 2015 and decided that one SubCommittee should be constituted for each of the category of disabilities which are provided reservation under section 33 of the said repealed Act and accordingly, following three SubCommittees were constituted, namely: —

i. Sub-Committee for locomotor disability ii. Sub-Committee for hearing impaired iii. Sub-Committee for visually impaired

6. And whereas, the Central Government notified the Rights of Persons with Disabilities Act, 2016 (hereinafter referred as “the Act”) which inter-alia under sub-section (1) of section 34 extended the benefit of reservation to persons with benchmark disabilities in the new category of (i) autism, specific learning disability, mental illness and intellectual disabilities and (ii) multiple disabilities amongst the various categories mentioned in the said section of the Act.

7. And whereas, Section 33 of the said Act mandates the appropriate Government to constitute expert committee for identification of posts suitable for persons with benchmark disabilities and accordingly, following two subcommittees were further constituted to take care of identification of posts suitable for new categories included under the Act, namely; (i) Sub-Committee for autism, intellectual disabilities, specific learning disability and mental illness, and (ii) SubCommittee for multiple disabilities.

8. And whereas, all the Sub-Committees reviewed the posts notified through notification No.1615/2010-DD-III dated the 29th July 2013, and submitted their reports and the Expert Committee considered the reports of the Sub-Committees in its meeting held on 19th November 2019, finalized its recommendations and submitted its report to the Central Government for consideration.

9. Now, therefore, in exercise of powers conferred upon section 33 of the said Act and based on the recommendations of the Expert Committee, the Central Government hereby notifies the gist of the report, which is at Annexure-B and the list of Central Government posts in Group A, B, C and D identified suitable for persons with benchmark disabilities which is at Annexure-C for information and further necessary action by all cadre controlling authorities in the Central Government.

10. The said list supersedes the list of posts for Groups ‘A’, ‘B’, ‘C’ and ‘D’ notified through notification No. 16-15/2010-DD-III dated 29th July, 2013.”

18. In response to the aforesaid direction, respondent No.1 - CAG has filed an additional affidavit, the relevant extract whereof is reproduced hereinbelow for ease of ready reference: —

“3. That the present additional affidavit is being filed in compliance with the order dated 06.01.2026 whereby, this Hon'ble Court has directed considering accommodating the Petitioner and Respondent No.3 in appropriate categories of posts in Indian Audit & Accounts Department (IA&AD) under Respondent No.1 (Comptroller and Auditor General of India (CAG).

4. It is respectfully submitted that, as stated in the counter affidavit dated 04.12.2025, suitable posts in IA&AD were identified in 2018 by a duly constituted Expert Committee under Sections 33 and 34 of the RPWD Act, 2016. The posts of Assistant Accounts Officer, Divisional Accountant

and Auditor were not identified as suitable for candidates with Specific Learning Disability or Mental Illness. Although such candidates, including the Petitioner, were initially recommended by Respondent No. 2 through CGLE2018, their dossiers were returned for reallocation. Respondent No. 2 thereafter issued a revised result dated 12.11.2022 cancelling their allocation to IA&AD.

5. That in the interim, pursuant to the Notification dated 04.01.2021, the Group C posts of Assistant (Audit) and Auditor-II were identified as suitable for persons with benchmark disabilities of Special and Mental Illness.

6. Pursuant to such change in the rule position, Respondent No. 1 is ready and willing to accommodate the Petitioner and Respondent No. 3 in Group C posts identified as suitable, immediately after a recommendation/ return of the dossier with complete details of the two candidates in this respect is received from Respondent No.2.

7. It is respectfully submitted that for the present recruitment process, Respondent No. 2 is the competent authority to make a recommendation to appoint the Petitioner for appointment against any post identified as suitable for his benchmark disability. Accordingly, Respondent No.1 has requested the representation by Respondent No.2 in the present proceedings vide its letter dated 13.02.2026. In the absence of such recommendation or directions from this Hon'ble Court, any appointment by Respondent No. 1 would be outside the ambit of its authority.

8. In view of the aforesaid, it is humbly reiterated that subject to recommendations made by Respondent No. 2 for appointing the Petitioner and Respondent No. 3 in other suitable posts, Respondent No. 1 undertakes to make such appointment.

9. Notwithstanding the aforesaid, Respondent No. 1 remains duty bound to implement such directions of this Hon'ble Court as it deems fit.”

19. Evidently, on a perusal of the affidavit filed by respondent No.1 - CAG, it is clear that now, there remains no impediment whatsoever for accommodating the appellant before us as well as R3 Shri Amit Yadav, against Group ‘C’ posts which have been identified as suitable to their disabilities.

20. The only reservation expressed in the affidavit is that these appointments can be considered only after the recommendation from respondent No.2 - the Staff Selection Commission (SSC) and receipt of the dossiers of the candidates.

21. We are, therefore, of the considered view that the present appeal deserves to be disposed of in light of the additional affidavit filed by respondent No.1 CAG. The respondent No.2-SSC is directed to forthwith and not later than within a period of two weeks from today, forward the dossiers of the appellant herein, as well as R3 – Shri Amit Yadav to respondent No.1-CAG. Upon the dossiers being received, the appellant herein and R3 – Shri Amit Yadav shall be duly considered for appointment against Group ‘C’ posts in terms of the additional affidavit dated 16th February, 2026. In case the posts advertised *vide* notification dated 5th May, 2018 have already been filled, the respondents shall create supernumerary posts for accommodating both these candidates. The appointment of the appellant herein and R3 – Shri Amit Yadav shall take effect from the date of their joining.

22. The appeal is disposed of in these terms.

23. Pending application(s), if any, shall stand disposed of.