



Law and Equity Foundation, Jharkhand

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Handbook
on
Disability Rights

(Updated until 01.08.2024)

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Foreword

Law and Equity Foundation, founded in 2023, is an organisation in Jharkhand that aims to provide access to justice to the marginalised. This collective of lawyers and social workers is spread throughout the state, including its most rural and remote regions, to ensure legal aid reaches all corners. We have worked on issues of gender-based violence, disability rights, tribal rights, environment, child abuse, and prisoner rights.

This Handbook is a concise guide to landmark judgments in disability rights law. By examining key decisions across various aspects of disability rights — from its fundamental principles to specific areas like education, public employment, accessibility and reasonable accommodation — we aim to provide a clear understanding of the legal framework supporting the rights of persons with disabilities. Each entry in this handbook is linked to an online version of the judgement as well. This resource is designed to serve as a practical tool for all those working towards or interested in the advancement of disability rights, offering insights that can inform advocacy, policy-making, and legal practice.

This Handbook has been compiled by Vibha Swaminathan, a student at the National Law School of India University, with contributions from Acharaj Kaur Tuteja (Student, Gujarat National Law University). We welcome suggestions to improve, expand and update the Handbook. Please contact us at lapjharkhand@gmail.com.

Landmark Judgements on Disability Rights

S. No	Case Name	Court and Bench Strength	Date of Judgement or Order	Para No.	Holding
<u>Disability Rights: General Principles and Directions</u>					
1.	Justice Sunanda Bhandare Foundation vs Union of India and Others W.P.(C) No. 116 of 1998, with Nos. 115 of 1998, 430 of 2000	Supreme Court, Three Judge Bench	Orders dated 26.03.2014, 25.04.2017 06.03.2020,	-	<p>This is an omnibus PIL, where the Court has issued continuing mandamus direction to various state authorities regarding implementation of the provisions of various beneficial legislations for persons with disabilities.</p> <p>Order dated 25.04.2017: We have referred to certain provisions only to highlight that the 2016 Act has been enacted and it has many salient features. As we find, more rights have been conferred on the disabled persons and more categories have been added. That apart, access to justice, free education, role of local authorities, National fund and the State fund for persons with disabilities have been created. The 2016 Act is noticeably a sea change in the perception and requires a march forward look with regard to the persons with disabilities and the role of the States, local authorities, educational institutions and the companies. The statute operates in a broad spectrum and the stress is laid to protect the rights and provide punishment for their violation.</p>
2.	Jeeja Ghosh and Anr vs Union of India and Ors (2016) 7 SCC 761	Supreme Court, Two Judge Bench	12.05.2016	-	<p>It is the common experience of several persons with disabilities that they are unable to lead a full life due to societal barriers and discrimination faced by them in employment, access to public spaces, transportation etc. Persons with disability are most neglected lot not only in the society but also in the family. More often they are an object of pity. There are hardly any meaningful attempts to assimilate them in the mainstream of the nation's life. The apathy</p>

					<p>towards their problems is so pervasive that even the number of disabled persons existing in the country is not well documented.</p> <p>Jeeja Ghosh herself is a living example who has, notwithstanding her disability, achieved so much in life by her sheer determination to overcome her disability and become a responsible and valuable citizen of this country. A little care, a little sensitivity and a little positive attitude on the part of the officials of the airlines would not have resulted in the trauma, pain and suffering that Jeeja Ghosh had to undergo. This has resulted in violation of her human dignity and, thus, her fundamental right, though by a private enterprise</p>
3.	Vikash Kumar vs Union Public Services Commission Civil Appeal No. 273 of 2021	Supreme Court, Three Judge Bench	11.02.2021	32	Part III of our Constitution does not explicitly include persons with disabilities within its protective fold. However, much like their able-bodied counterparts, the golden triangle of Articles 14, 19 and 21 applies with full force and vigour to the disabled. The RPwD Act 2016 seeks to operationalize and give concrete shape to the promise of full and equal citizenship held out by the Constitution to the disabled and to execute its ethos of inclusion and acceptance.
4	Seema Girija Lal v. Union of India W.P. (Civil) Diary No(s). 29329/2021	Supreme Court, Two Judge Bench	Orders dt. 13.01.2023, 22.04.2024	7-8	The Union Ministry shall file a counter affidavit within a period of a month dealing with the specific issues which have been raised by the petitioners in regard to the lack of effective implementation of the Rights of Persons with Disabilities Act 2016 by the State Governments. The affidavit shall indicate Statewise, the status of compliance in regard to the matters which are raised in the petition. Within this period, the Ministry shall also convene a meeting with the State government ministries dealing with implementation of the Rights of Persons With Disabilities Act 2016. In the meantime, we direct the Union Government to convene a meeting of all the concerned Ministries of the State Governments and the State Advisory Boards with a view to eliciting the present status of compliance.

Welfare Benefits					
5.	National Federation of the Blind vs Govt. of NCT of Delhi and Ors W.P.(C) 210/2018.	Delhi High Court, Division Bench	Order dt. 20.01.2023	3	The prayer made by the learned Senior Counsel for the Petitioner is a genuine prayer and, therefore, Director (Education) of the State Government is directed to ensure that there is no scarcity of teachers in the schools meant for visually impaired students and to make all possible efforts to ensure that the teachers are permitted to continue in the schools in question till the academic session is over and the students do not suffer because of unavailability of teachers.
6.	Natwarlal Bhalabhai vs Divisional Manager, Western Railways 2006 SCC OnLine Guj 270	Gujarat High Court, Division Bench	11.08.2006	3-4	Court noted that though the petitioner may be in a position to earn his livelihood by working in the Railways, the fact remains that he is unable to earn because of his blindness and because of his age. Under the circumstances, it was decided that the respondents have wrongly denied the pension to the petitioner and that the petitioner is entitled for the family pension from the date of the death of his father. This case is noteworthy for interpreting 'ability to earn' in a progressive way, and granting family pension considering the age and complete blindness of petitioner.
7.	Union of India vs Baba Singh 2012 SCC OnLine MP 10479	Madhya Pradesh High Court			As far as capacity to earn livelihood is concerned, does it mean he should adopt means of begging in streets? The family pension being a welfare scheme has to be construed liberally and not in pedantic manner. The welfare State is required to adopt an approach which advances the welfare of the people and not otherwise, which is ex facie retrograde.
Access to Public Spaces					
8.	Govt. of NCT of Delhi vs Nipun Kumar Malhotra W.P.(C)	Delhi High Court,	Order dt, 01.06.2018, 22.10.2018	-	This Court on the basis of the aforesaid provision had directed that all modes of transport, including, but not limited to Bus transport should be disabled friendly and, therefore, the Central Government, State Governments as well as Union Territories would ensure that all

	9643/2017, CM Nos. 39251/2017, 12571 & 14652/2018				<p>government buses are disabled friendly and in accordance with the Harmonised Guidelines. The High Court has accordingly come to the prima facie conclusion that as all the buses have to be disabled friendly and in accordance with the Harmonised Guidelines, the Government of NCT of Delhi is precluded from buying standard floor buses.</p> <p>We also note that based on the aforesaid observation, it becomes the duty of the Central Government, State Governments and Union Territories to ensure that all government buses should be disabled friendly.</p>
9.	Javed Abidi vs Union of India and Others (1999) 1 SCC 467	Supreme Court, Two Judge Bench	17.12.1998		<p>“To create a barrier free environment for persons with disabilities and to make special provision for the integration of persons with disabilities into the social mainstream apart from the protection of rights, provisions of medical care, education, training, employment and rehabilitation are some of the prime objectives of the Act.”,</p> <p>“The petitioner himself is an orthopedically impaired person...He appeared in person in this Court and successfully presented his case indicating several infirmities as well as callousness of the different organizations of the State in implementing the provisions of the Act...we cannot but thank the petitioner...which resulted in acceleration of the implementation of different provisions of the Act, not only by the Union Government but also by the State Governments.”</p>
10.	Rajive Raturi vs Union of India (2018) 2 SCC 413	Supreme Court, Two Judge Bench	15.12.2017	10, 15-19, 28-29	<p>The court noted that having regard to the Constitutional and Statutory Scheme, there is no denial of the fact that visually impaired persons need to be provided proper and safe access to roads and transport as well as to buildings, public places etc.</p> <p>The judgement reiterated ten action points which were encoded statutorily, in the 2016 Act, emphasising that these were now a statutory obligation on the part of the Central Government as well as the State Governments, to do the needful by the target dates.</p>

11.	State Bank of India vs Ajay Kumar Sood Civil Appeal No. 5305 of 2022 (Arising out of SLP (C) No 4038 of 2021)	Supreme Court, Two Judge Bench	16.08.2022		“On the note of accessibility, the importance of making judgments accessible to persons from all sections of society, especially persons with disability needs emphasis. All judicial institutions must ensure that the judgments and orders being published by them do not carry improperly placed watermarks as they end up making the documents inaccessible for persons with visual disability who use screen readers to access them. On the same note, courts and tribunals must also ensure that the version of the judgments and orders uploaded is accessible and signed using digital signatures. They should not be scanned versions of printed copies. The practice of printing and scanning documents is a futile and time-consuming process which does not serve any purpose. The practice should be eradicated from the litigation process as it tends to make documents as well as the process inaccessible for an entire gamut of citizens.”
12.	Rahul Bajaj vs Director, Practo Technologies , Case No. 13205/1102/2022	Court of Chief Commissioner for Persons with Disabilities	24.08.2022		The Court of CCPD was hearing a complaint filed by a lawyer with 100% visual impairment, Rahul Bajaj, on March 22, 2022 regarding the website and app being inaccessible and not in compliance with accessibility standards. The complainant had submitted that the home screen of the app was unorganised and inaccessible with screen reading software, some buttons were not labelled and others had “nonsensical labels”. The CCPD Court ordered Practo, the online healthcare service provider, to make its website and app fully accessible for the disabled, affirming that legal requirements and guidelines on accessibility applied to private companies and establishments as well.
13.	People’s Union for Civil Liberties, Ranchi vs State of Jharkhand, W.P. (PIL) No. 719 of 2023	Jharkhand High Court, Division Bench	29.09.2023	3-5	The petitioner has prayed for issuance of a writ in the nature of mandamus directing the respondents to provide at least two wheel chairs in every court, judicial or quasi judicial forums in the State and also for providing appropriate infrastructure therein for the differently abled persons. It is the duty of the State of Jharkhand to provide the facilities to

					<p>the differently abled persons.</p> <p>We allow this W.P.(PIL) and hereby, direct that since the 5 years have already elapsed, the said facilities shall be provided in any Court, tribunal, authority, commission or any other judicial or quasi-judicial body, within a period of six months</p>
Right to Access Education and Reservations					
14	Union of India and Anr. vs National Federation of the Blind and Ors C.A No. 9096 of 2013	Supreme Court, Three Judge Bench	08.10.2013	49-55	<p>49) Employment is a key factor in the empowerment and inclusion of people with disabilities. It is an alarming reality that the disabled people are out of job not because their disability comes in the way of their functioning rather it is social and practical barriers that prevent them from joining the workforce. As a result, many disabled people live in poverty and in deplorable conditions. They are denied the right to make a useful contribution to their own lives and to the lives of their families and community.</p> <p>50) The Union of India, the State Governments as well as the Union Territories have a categorical obligation under the Constitution of India and under various International treaties relating to human rights in general and treaties for disabled persons in particular, to protect the rights of disabled persons....</p> <p>51) ...We are of the view that the computation of reservation for persons with disabilities has to be computed in case of Group A, B, C and D posts in an identical manner viz., “computing 3% reservation on total number of vacancies in the cadre strength” which is the intention of the legislature. Accordingly, certain clauses in the OM dated 29.12.2005, which are contrary to the above reasoning are struck down and we direct the appropriate Government to issue new Office Memorandum(s) in consistent with the decision rendered by this Court.</p> <p>52) Further, the reservation for persons with disabilities has nothing to do with the ceiling of 50% and hence, Indra Sawhney (supra) is not applicable with respect to the disabled persons.</p>

15	Disabled Rights Group vs. Union of India and Others W.P.(C)No. 292/2006 and 997/2013	Supreme Court of India, Two Judge Bench	15.12.2017	2, 7-8, 10, 17	<p>The first issue related to the non-implementation of 3% reservation of seats in educational institutions as provided in Section 39 of the Disabilities Act, 1995 and Section 32 of the Disabilities Act, 2016.</p> <p>7. It, thus, hardly needs to be emphasised that such educational institutions are bound to reserve seats for persons suffering from disability. Notwithstanding the same, grievance of the Petitioner is that the educational institutions have not been adhering thereto.</p> <p>8 . No doubt, some progress is made in this behalf after the filing of this present petition and monitoring of the case by this Court, there is a need for complying with this provision to full extent. Accordingly, we direct that all those institutions which are covered by the obligations provided Under Section 32 of the Disabilities Act, 2016 shall comply with the provisions of Section 32 while making admission of students in educational courses of higher education each year. To this end, they shall submit list of the number of disabled persons admitted in each course every year to the Chief Commissioner and/or the State Commissioner (as the case may be). It will also be the duty of the Chief Commissioner as well as the State Commissioner to enquire as to whether these educational institutions have fulfilled the aforesaid obligation. Needless to mention, appropriate consequential action against those educational institutions, as provided Under Section 89 of the Disabilities Act, 2016 as well as other provisions, shall be initiated against defaulting institutions.</p>
16	Purswani Ashutosh v. Union of India W.P.(C) No. 669 of 2018	Supreme Court, Two Judge Bench			<p>The 2016 Act, in particular Section 32 thereof, read with the Medical Education Regulations clearly provides for reservation of seats in the MBBS Course for persons like the petitioner with specified benchmark disability of low vision.</p> <p>It is not necessary to adjudicate if Section 32 is applicable to Medical Institution or not. MCT Regulations provide for reservation in education institution and are binding on MCI hence medical</p>

					colleges which are covered by MCI shall be bound by the regulations with respect to reservation. Section 32 provides reservation in higher educational institutions as well as technical institutions imparting technical education.
<u>Right to Access Education and Reasonable Accommodation</u>					
17	Disabled Rights Group vs. Union of India and Others W.P.(C)No. 292/2006 and 997/2013	Supreme Court of India, Two Judge Bench	15.12.2017	2, 10-12, 17	<p>12. Insofar as the rights based approach is concerned, that has been narrated in detail in Rajive Raturi's judgement. We may add that a basic underline assumption, which is well recognised, is that everyone can learn; there is no such person as one who is ineducable; and that, accordingly, all disabled persons (from whatever disability they are suffering) have right to get not only minimum education but higher education as well. Not making adequate provisions to facilitate proper education to such persons, therefore, would amount to discrimination. Such requirement is to ensure that even a student with disability, after proper education, will be able to lead an independent, economically self sufficient, productive and fully participatory life. This rights-based approach is an inclusive approach which calls for the participation of all groups of the population, including disadvantaged persons, in the development process. Inclusive development builds on the idea of 'Society for All' in which all people are equally free to develop their potential, contribute their skills and abilities for the common good and to take up their entitlements to social services. It emphasises strengthening the rights of the people with disabilities, and foster their participation in all aspects of life. A disability is only actually a disability when it prevents someone from doing what they want or need to do..... The aforesaid discussion amply justifies right of access to students with disabilities to educational institutions in which they are admitted.</p> <p>Held; writ petition disposed with directions for constitution of</p>

					Committee to undertake a detailed study for making provisions in respect of accessibility as well as pedagogy and would also suggest the modalities for implementing those suggestions, their funding and monitoring, etc. The Committee shall also lay down the time limits within which such suggestions could be implemented. The Expert Committee may also consider feasibility of constituting an in-house body in each educational institution (of teachers, staff, students and parents) for taking care of day to day needs of differently abled persons as well as for implementation of the Schemes that would be devised by the Expert Committee.
18	Disabled Rights Group vs Union of India Miscellaneous Application No.1637/2019 in W.P.(C) No.292/2006	Supreme Court of India, Two Judge Bench	10.01.2022		<p>The Supreme Court in January, while hearing a miscellaneous application arising out of a 2017 judgement on disability rights, ordered the University Grants Commission to finalise guidelines for the inspection of educational institutions to ensure the implementation of the Rights of Persons with Disabilities Act, 2016 and commence the inspection work proactively.</p> <p>Subsequently, in March, the commission informed the top court that it had published draft guidelines to ensure access for persons with disabilities in higher educational institutions, on which suggestions had been solicited from stakeholders.</p>
19	Rajneesh Kumar Pandey and Ors vs Union of India W.P (Civil) No. 132 of 2016 and 876 of 2017	Supreme Court of India, Three Judge Bench	28.10.2021	55-57	<p>57 . In view of the above, a multipronged approach needs to be adopted by the concerned Authorities with immediate effect, inter alia, as follows:</p> <p>A. The Central Government must forthwith notify the norms and standards of pupil-teacher ratio for special schools and also separate norms for special teachers who alone can impart education and training to CwSN in the general schools; and until such time, as a stopgap arrangement adopt the recommendations made by the State Commissioner, NCT of Delhi in the case of Ms. Reshma Parveen reproduced in paragraph 51 above;</p>

					<p>B. To create commensurate permanent posts as per the just ratio to be specified by the competent authority for the rehabilitation professionals/special teachers who can cater to the needs of CwSN;</p> <p>C. To initiate appointment process to fill-in vacancies for the posts so created for rehabilitation professionals/special teachers for being appointed on regular basis. The same shall be completed within six months from the date of this order or before the commencement of academic year 2022-2023, whichever is earlier;</p> <p>D. To overcome the shortage of resource persons (rehabilitation professionals/special trained teachers), the training schools/institutions must take steps to augment the number whilst ensuring that the norms and standards specified under the governing laws and regulations including that of the Council for grant of recognition and registration are fulfilled;</p> <p>E. Until sufficient number of special teachers becomes available for general schools and special schools, the services of special trained teachers can be availed as itinerant teachers as per the SSS within the school block (cluster schools) to optimize the resource persons and as a stopgap arrangement;</p> <p>F. The other teachers and staff in the general schools be given compulsory training and sensitized to handle the CwSN in the general schools, if admitted; and</p> <p>G. The authorities may also explore the possibility of merging unviable special schools with relatively viable special schools in the neighbourhood, so as to entail in consolidation of assets and resources for better delivery to the requirements of CwSN.</p>
20	Pranav Kumar Poddar vs State of Tripura and Ors. , SLP (Civil) No 27388 of 2015 2017 INSC 264	Supreme Court of India, Three Judge Bench	12.09.2017	-	<p>The Court held that the total exclusion of candidates with colour vision deficiency for admission to medical courses without any stipulation in which areas they really can practise and render assistance would tantamount to regressive thinking.</p> <p>On 23rd March 2017, the Court had directed the constitution of a</p>

					<p>Committee of Experts to review the situation and take note of the prevalent conditions of the study and practice and suggest changes for adoption in the medical course keeping in view the international practices. The expert Committee was also directed to concentrate on diagnostic test for progress and review of the disorder of colour blindness and what are the available prosthetics aids to assist CVD medical practitioners and what areas of practice could they undertake without difficulty with these aids.</p> <p>The Committee met, and submitted its recommendations. Perusing the recommendations of the Committee, the Court noted that learned senior counsel appearing for the Medical Council of India submits that the persons suffering from Colour Vision Deficiency shall be permitted by the Medical Council of India to undertake the examination and be admitted to M.B.B.S. course. However, he would contend that certain guidelines are required to be framed in accordance with the report of the Committee for controlling the speciality and super-speciality courses as far as this category is concerned. There shall be some guidelines also pertaining to practise.</p>
21	Vikash Kumar vs Union Public Services Commission Civil Appeal No. 273 of 2021	Supreme Court, Three Judge Bench	11.02.2021	44-55	<p>The Court held that the broad definition of person with disability under section 2(s) of the 2016 Act borrows from the CRPD definition and is from the social model of disability and not a medical model. There is another definition under section 2 (r) which refers to a person with benchmark disability, which is not less than 40% disability. Benchmark disability is limited to certain provisions of the legislation, which referred to reservation in public employment and a few other provisions of the law. The Court held that by limiting the access of a scribe to only a person who falls under 2 (r), which is a person with benchmark disability, it would violate the overall framework of the law.</p>

				<p>The Court refers to reasonable accommodation as a key component of equality and non-discrimination, highlighting that reasonable accommodation is really the positive obligation on the state and private parties to provide additional support to persons with disabilities to facilitate their full participation.</p> <p>Importantly, the Court questions the value of V Surendra Mohan, which upheld a policy barring those with benchmark disabilities from becoming judges. It notes: “ In light of the fact that the view of this court in Mohan was rendered in a case under the 1995 Act which has now been replaced by the RPwD Act 2016 and in light of the absence of a reasonable accommodation analysis by this Court, the Mohan judgement stands on a legally vulnerable footing. It would not be a binding precedent, after enforcement of the RPwD Act 2016.”</p>
22	Chinmoy Parthasarathi Bhattacharya v. Union of India Writ Petition (Civil) No. 69/2022	Supreme Court, Two Judge Bench	08.03.2022	<p>The Court allowed a medical student who suffered a grave injury due to a vehicular accident causing his left hand to be amputated above the elbow, to enrol in a postgraduate course in Preventive and Social Medicine/Community Medicine. The Court observed that the particular course the petitioner had opted for would not involve any interaction between him and patients, and that “he met with an accident when he was in his final year and yet he successfully completed the course”.</p>
23	Lalit and Ors vs Govt. of NCT and Anr. W.P.(C) 3444/2008	Delhi High Court, Single Judge Bench	07.05.2010	<p>This petition was filed by 12 inmates of the hostel attached to Andh Mahavidyalya, New Delhi, an institution for visually impaired students, seeking a direction that they may not be expelled or dispossessed from the hostel. One of the main issues before the Court was whether the hostel was obligated to accommodate the petitioners because of their disabled status even if it resulted in a disadvantage to the other disabled students. Justice Muralidhar of the Delhi High Court noted that the facts illustrated the lack of decent</p>

					<p>accommodation for children with disabilities and recognised the associated problems of lack of resources, hygiene and accountability in the running of institutions with disabled children. The court held as follows:</p> <p>“In the context of the inviolable human rights of the disabled, it is necessary to take note of the binding and mandatory provisions of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 (specifically Sections 26 and 30) (‘PDR Act’) and the Convention on the Rights of Persons with Disabilities (‘CRPD’) which has been ratified by India. In particular, Article 7 which set out the obligations of the States towards children with disabilities, Article 9 which obliges the States to take appropriate measures to ensure access to “schools, housing, medical facilities’, and Article 24 which deals with the right to education are relevant.”</p>
24	Dr. Harish Shetty vs Regional Director 2017 SCC OnLine Bom 742, Suo Moto PIL No. 2 of 2015	Bombay High Court, Division Bench	04.05.2017	5-9	<p>Court directed educational institutions to carry out the task of detecting specific learning disabilities in children at the very earliest stage, preferably, when they are in the primary schools or after they complete the age of nine years. Apart from conducting medical tests of these students to find out whether they have learning disabilities or not, one other method which can be deployed by the school authorities is to examine these students who had fair performance earlier in the studies and who have not done well in the studies in the recent years.</p>
25	Manif Alam vs IIT Delhi 2018 SCC OnLine Del 7255	Delhi High Court, Single Judge	16.02.2018	16 - 21	<p>A physically disabled student of IIT Delhi was expelled for not securing minimum marks in First semester. Court while reinstating his admission directed IIT Delhi to provide him extra coaching so that he can cope up with the advanced studies. Court held that it is duty of the educational institution to provide such assistance to the person with disability and in such a situation such person can not be expelled even if rules of the university provide for the same. Court</p>

					further held that automatic expulsion of such student because he failed to secure minimum grade in a semester is arbitrary, therefore institute is duty bound to give him opportunity to explain why he failed to meet the prescribed criterion.
26	Arun Kumar, President of Jharkhand Viklang Manch vs State of Jharkhand, W.P (PIL) No. 4891 of 2012	Jharkhand High Court, Division Bench	02.12.2014	9-10	<p>This Public Interest Litigation has been mainly preferred for getting the direction that the respondents may give extra time or additional time to appear in the examination to the “differently abled persons” whether it is school examination, college examination or examination conducted by any other type of educational institutions or by Jharkhand Public Service Commission or may be in a competitive examinations or any examination conducted by the “State”.</p> <p>Held: For the development of the society as a whole, the abilities of “differently abled persons” can be brought out by giving “compensatory time” during their examination. For maintenance of the uniformity and consistency, across the State, for the persons with disabilities, for written examination, “compensatory time” should be provided by all the authorities who are “State” within the meaning of the Article 12 of the Constitution of India. This “compensatory time” provides a level playing field to the handicapped persons. The grant of “compensatory time” puts them at par with the other students or candidates, who are giving exams. Thus, the principles of equality enshrined in Article 14 demands grant of “compensatory time” to the “differently abled persons” in the examinations conducted by the authorities, who are “State” within the meaning of Article 12 of the Constitution of India.</p>
<u>Government Employment and Reservations</u>					
27	Union of India vs National	Supreme Court,	08.10.2013		Computation of reservation is based upon total number of vacancies in cadre strength and not on basis of vacancies available in identified

	Federation of Blind (2013) 10 SCC 772	Three Judge Bench			posts. Such computation should be identical for Group A, B, C and D posts. Section 32 of 1995 Act (Section 33 of 2016 Act) is not pre condition to Section 33 (similar to Section 34 of 2016 Act). The 50 percent ceiling rule not applicable. The Act provides for 'Vacancy based reservation' and does not provide for 'Post based reservation'
28	Arun Kumar Singh vs State of Jharkhand W.P. (PIL) No. 7252 of 2013	Jharkhand High Court, Division Bench	09.03.2016	13-15	<p>The issue before the Court was whether reservation under Section 33 of the Disability Act, 1995 has to be implemented considering the total number of posts advertised only or the number of posts advertised viz-a-viz cadre strength ?</p> <p>13. Considering the provisions under the Disabilities Act, 1995 and the judgment in "National Federation of the Blind" (supra), it is hereby declared that reservation for differently-abled persons shall be decided on the basis of total cadre strength and, it would be implemented to total number of vacancies advertised. For example, if only 20 vacancies against total cadre strength of 100 posts have been advertised, one post may be kept reserved for any one of the three categories of disabilities mentioned in Section 33, if a post can be identified for extending benefit of reservation to such category of persons. In the event no post from roster point number 1 to 20 can be identified, one vacancy from roster point number 1 to 33 must be kept reserved for any one of the three categories of disabilities in tune with Section 33. However, at this point also if no post is identifiable for any one of the three categories of disabilities, from roster point number 33 to 67 two posts shall be kept reserved, and similarly, again reservation in roster point number 34 to 67 and roster point number 68 to 100 has to be implemented. The reservation under Section 33 is distinct from the scheme of reservation for SC/ST/OBC etc. in as much as, reservation in favour of persons with disabilities is horizontal and that precisely is the reason why vacancy occurring in the roster at roster point Nos. 1 to 33, 34 to 37, 68 to 100 are available for appointment of suitable</p>

					persons with disabilities. In any event all Establishments have to ensure reservation of minimum 3% for differently-abled persons as indicated in Section 33 of the Disabilities Act, 1995.
29	Rajeev Kumar Gupta vs Union of India (2016) 13 SCC 153	Supreme Court, Two Judge Bench	30.06.2016	21-24	<p>Issue under consideration was whether reservations for persons with disabilities should extend to promotions.</p> <p>21. The principle laid down in Indra Sawhney is applicable only when the State seeks to give preferential treatment in the matter of employment under State to certain classes of citizens identified to be a backward class. Article 16(4) does not disable the State from providing differential treatment (reservations) to other classes of citizens under Article 16(1)[11] if they otherwise deserve such treatment. However, for creating such preferential treatment under law, consistent with the mandate of Article 16(1), the State cannot choose any one of the factors such as caste, religion etc. mentioned in Article 16(1) as the basis. The basis for providing reservation for PWD is physical disability and not any of the criteria forbidden under Article 16(1). Therefore, the rule of no reservation in promotions as laid down in Indra Sawhney has clearly and normatively no application to the PWD.</p> <p>24. A combined reading of Sections 32 and 33 of the 1995 Act explicates a fine and designed balance between requirements of administration and the imperative to provide greater opportunities to PWD. Therefore, as detailed in the first part of our analysis, the identification exercise under Section 32 is crucial. Once a post is identified, it means that a PWD is fully capable of discharging the functions associated with the identified post. Once found to be so capable, reservation under Section 33 to an extent of not less than three per cent must follow. Once the post is identified, it must be reserved for PWD irrespective of the mode of recruitment adopted by the State for filling up of the said post.</p>

30	Siddaraju v. State of Karnataka , Civil Appeal No, 1567 of 2017	Supreme Court, Three Judge Bench	14.01.2020	10-11	<p>Question which has arisen in this case is whether persons, governed under “The persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995”, can be given reservation in promotion.</p> <p>10...We are of the view that the judgement of this Court cannot be faulted when it stated that Indra Sawhney dealt with a different problem and, therefore, cannot be followed.</p> <p>11) We may also note that review petitions were filed and have since been dismissed against both the 2013 and 2016 judgments. Consequently, the reference stands answered by stating that the 2013 judgement as clarified in National Federation of the Blind vs. Sanjay Kothari, Secy. Deptt. of Personnel and Training, 2015 (9) Scale 611 and the judgment in Rajeev Kumar Gupta & Others v. Union of India & Others – (2016) 13 SCC 153 case will bind the Union and the State Governments and must be strictly followed notwithstanding the Office Memorandum dated 29.12.2005, in particular.</p>
31	Aryan Raj v. State (UT of Chandigarh) Civil Appeal No. 2718 of 2020	Supreme Court, Three Judge Bench	08.07.2020		<p>We are of the view that the High Court is correct on the bifurcation aspect. Further, insofar as the aptitude test having to be passed is concerned, the High Court is correct in saying that no exemption ought to be granted, but we follow the principle laid down in the Delhi High Court’s judgment in Anamol Bhandari (Minor) through his father/Natural Guardian v. Delhi Technological University 2012 (131) DRJ 583 in which the High Court has correctly held that people suffering from disabilities are also socially backward, and are therefore, at the very least, entitled to the same benefits as given to the Scheduled Castes/ Scheduled Tribes candidates.</p> <p>In our view, considering that Scheduled Castes/Scheduled Tribes candidates require 35 per cent to pass in the aptitude test, the same shall apply so far as the disabled are concerned in future.</p>

32	Anmol Bhandari vs Delhi Technological University W.P.(C) 4853/2012	Delhi High Court	13.09.2012		In this case relaxation of 5 percent was given to PwDs and that of 10 percent was given to people belonging to SC and ST community. Court thus held that the provision giving only 5% concession in marks to PWD candidates as opposed to 10% relaxation provided to SC/ST candidates is discriminatory and PWD candidates are also entitled to same treatment.
33	Govt. of India vs Ravi Prakash Gupta (2010) 7 SCC 626	Supreme Court, Two Judge Bench	07.07.2010	17	<p>The issue in this case was whether reservation to PwDs under s.33 of 1996 Act can be denied till executive identifies posts for reservation under Section 32 of 1996 Act. The Court held that waiting for the executive to identify posts in order to extend reservation to PwDs shall be violation of the intent of the legislature.</p> <p>It is only logical that, as provided in section 32 of the aforesaid Act, posts have to be identified for reservation for the purposes of Section 33, but such identification was meant to be simultaneously undertaken with the coming into operation of the Act, to give effect to the provisions of Section 33. The legislature never intended the provisions of section 32 of the Act to be used as a tool to deny the benefits of Section 33 to these categories of disabled persons indicated therein. Such a submission strikes at the foundation of the provisions relating to the duty cast upon the appropriate government to make appointments in every establishment.</p>
34	Union of India and Ors vs Sangram Keshari Nayak (2007) (6) SCC 204)	Supreme Court, Division Bench	27.04.2007	-	This ruling affirmed that while promotion is not a fundamental right, the right to be considered for promotion in a meaningful and effective manner is fundamental. It clarified that employee promotion conditions can only be curtailed by valid rules that should not overly restrict promotion rights.
35	Ritesh Sinha v. State of Haryana WP Civil No.3087	Punjab and Haryana	02.08.2013	-	The case focused on Sections 32, 33, and 47 of the Disability Act, highlighting the need for periodic identification and reservation of posts for disabled persons to ensure their economic independence

	of 2011	High Court, Single Judge			and integration into society.
36	Suresh Kumar Bhagat v. The Chairman, Coal India Limited And Ors W.P.(S) No. 1860 of 2020	Jharkhand High Court, Single Judge Bench	16.05.2024	-	The court underscored that social justice, as reflected in Articles 14, 16, and 21 of the Constitution, includes timely consideration for employee promotions. Authorities must ensure that delays in promotions are avoided as they can cause irreparable damage to an employee's career.
37	Manjunatha v. Govt. of Karnataka & Ors W.P. 35969 of 2010	Karnataka High Court, Single Judge Bench	29.09.2011	4	The court held that disability legislations take precedence over administrative rules, emphasising the importance of adhering to specific disability laws to protect the rights of disabled individuals in employment and other sectors.
<u>Government Employment and Reasonable Accommodation</u>					
38	Deaf Employees Welfare Association vs Union of India (2014) 3 SCC 173	Supreme Court of India, Two Judge Bench	12.12.2013		This petition was filed seeking a Writ of Mandamus directing the Central and state governments to grant equal transport allowance to its government employees suffering from hearing impairment as what was being given to blind and other disabled government employees. The allowance given to the hearing impaired employees was significantly lower than the allowance granted to other employees with disabilities. The Supreme Court allowed the petition and directed the Respondents to grant transport allowance to speech and hearing impaired persons also on par with blind and orthopaedically disabled government employees. The court held that: “there cannot be further discrimination between

					<p>a person with disability of ‘blindness’ and a person with disability of ‘hearing impairment’. Such discrimination has not been envisaged under the Disabilities Act.” It held that equality of law and equal protection of law afforded to all persons with disabilities while participating in government functions. The court held that the dignity of persons with hearing impairments must be protected by the state. Even the assumption that a hearing or speech impaired person is suffering less than a blind person is, in effect, marginalising them; and as such, the same benefits must be given to them, as are awarded to blind citizens. Any move made by the state to further this objective is in consonance with the principles enshrined in Articles 14. This case held that deaf and mute people should also be given transportation allowances on par with blind and orthopedically handicapped employees of the government.</p>
39	Bhagwan Das & Anr v. PSEB C.A. 8 of 2008	Supreme Court, Two Judge Bench	04.01.2008	-	<p>The court emphasised that officers are duty-bound to follow the law and should not allow personal biases to infringe upon the lawful rights of disabled employees. It highlighted that disabled individuals are equal citizens with rightful access to resources and that denial of their rights creates broader societal issues.</p>
40	Net Ram Yadav vs State of Rajasthan	Supreme Court, Two Judge Bench	11.09.2022		<p>The Court held that persons with disabilities should not be forced to forfeit seniority for opting to be posted at or near a place of their convenience pursuant to a beneficial circular issued by the Rajasthan government. “The benefit which has been given to the disabled through the circular/government order cannot be taken away by subjecting the exercise of the right to avail of the benefit on such terms and conditions, as would render the benefit otiose.</p>
41	Ravinder Kumar Dhariwal vs Union of India and Ors C.A. No.	Supreme Court, Three Judge	17.12.2021	89, 97-00	<p>(i) Mental health disorders are recognised as a disability as long as they fulfil the defining criteria; (ii) The duty of providing reasonable accommodation to persons with disabilities is sacrosanct. All possible alternatives must be</p>

	6924 of 2021	Bench			<p>considered before ordering dismissal from service. However, there are accepted defences to this principle. The well-recognised exception to this Rule is that the duty to accommodate must not cause undue hardship or impose a disproportionate burden on the employer-the interpretation of these concepts may vary in each jurisdiction....Thus, a blanket approach to disability-related conduct will not suffice to show that the employer has discharged its individualized duty to accommodate. It must show that it took the employee's individual differences and capabilities into account;</p> <p>(iii) Mental health disorders pose a unique challenge in disability rights adjudication. Very often, persons are not aware of or are in denial of their mental disability. Even if they hold the awareness, to avoid stigma and discrimination, they tend to not disclose their mental illness before an incident of purported misconduct. Thus, they may fall foul of the requirement to request a reasonable accommodation.</p> <p>(iv) An issue that remains contentious is the examination of misconduct charges against persons with mental health disorders. There are two strands of argument. One argument is that mental disability often manifests as atypical behaviour that may fall within the ambit of misconduct. If such conduct is causally connected to the disability, then dismissal on grounds of misconduct is discrimination based on disability...On the other hand, it is argued that while mental health disorders may diminish the control a person has over their actions, it does not necessitate that the persons have completely lost their ability to comply with acceptable standards of workplace conduct.</p> <p>On facts, held; the appellant is most vulnerable to engage in behaviour that can be classified as misconduct because of his mental disability. Disciplinary proceedings are discriminatory, and must be set aside.</p>
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42	Kunal Singh vs Union of India (2003) 1 SCR 1059	Supreme Court of India, Two Judge Bench	13.02.2003	<p>An employee, who acquires disability during his service, is sought to be protected under Section 47 of the Act specifically. Such employee, acquiring disability, if not protected, would not only suffer himself, but possibly all those who depend on him would also suffer. The very frame and contents of Section 47 clearly indicate its mandatory nature. The very opening part of Section reads "no establishment shall dispense with, or reduce in rank, an employee who acquires a disability during his service". The Section further provides that if an employee after acquiring disability is not suitable for the post he was holding, could be shifted to some other post with the same pay scale and service benefits; if it is not possible to adjust the employee against any post he will be kept on a supernumerary post until a suitable post is available or he attains the age of superannuation, whichever is earlier. Added to this no promotion shall be denied to a person merely on the ground of his disability as is evident from sub-section (2) of Section 47.</p>
43	Shalini Dharmani vs State of Himachal Pradesh SLP C 16864 of 2021	Supreme Court of India, Two Judge Bench	22.04.2024	<p>The provision of Child Care Leave to women subserves the significant constitutional object of ensuring that women are not deprived of their due participation as members of the work force. Otherwise, in the absence of a provision for the grant of Child Care Leave, a mother may well be constrained to leave the work force. This consideration applies a fortiori in the case of a mother who has a child with special needs. Such a case is exemplified in the case of the petitioner herself. We are conscious of the fact that the petition does trench on certain aspects of policy. Equally, the policies of the State have to be consistent and must be synchronise with constitutional protections and safeguards. 8 In this view of the matter, we are of the view that the State of Himachal Pradesh must be directed to reconsider the entire aspect of the grant of Child Care Leave to mothers, including making special provisions consistent with the objects and purpose of the RPWD Act to mothers who are bringing up children with special needs.</p>

44	Amita vs Union of India (2005) (13) SCC 721	Supreme Court of India, Two Judge Bench	11.09.2005		In our view, and in view of the discussions made herein earlier, in the facts and circumstance of this case, Art.14 was infringed for denial of permission to the petitioner to sit and write the examination for selection of Probationary Officers. As noted herein earlier, writ petitioner was not allowed to sit for the competitive examination for the post of the Bank Probationary Officer on the ground that she was visually impaired candidate although the advertisement in the newspaper did not disclose that a visually impaired candidate cannot be allowed to sit and write the examination as the nature and duty of the job were not suitable for the visually impaired candidate.
45	Anil Kumar S vs Kerala State Road Transport Corporation 2020 SCC OnLine Ker 3585	Kerala High Court, Single Judge Bench	21.09.2020		Court reiterated the law laid down in Section 20 and ordered Respondent to change the service to the Complainant in accordance with Section 20 of the 2016 Act.
46	Sajimon KB vs Kerala State Road Transport Corporation 2019 SCC OnLine Ker 7139; (2020) 1 KLJ 513	Kerala High Court, Single Judge Bench	13.03.2020		When employee is eligible for lower category change, it does not stipulate anything to the lower scale of pay hence such employee would be eligible for protection of pay before the category change.
<u>Rights of Disabled Persons in Criminal Justice System</u>					
47	Rakesh Kumar Kalra vs State Govt. of NCT Delhi W.P.(Crl)2500/202	Delhi High Court, Single Judge	24.08.2023	27, 37-48	27. Denial of opportunity of meaningful and effective participation in a criminal trial or in a judicial proceeding amounts to judicial and constitutional failure of justice. The Rights of Persons with Disabilities Act, 2016 is Anti-Discrimination legislation which aims to ensure rigorous and judicious pursuit of equality by ensuring

	2 and CrI.M.A. 21701/2022				<p>equality of participation in judicial system and receiving justice by persons with disabilities. Needless to say, extending the scope of Articles 14 and 21 of the Constitution of India and of the Rights of Persons with Disabilities Act, 2016 to accused persons and litigants on either side or capacity will reveal the court's commitment to ensure practical equality and dignity to persons with disabilities.</p> <p>5. As discussed above, steps have been taken by this Court, under the guidance of Hon'ble Supreme Court of India, to digitize the functioning of the Court including District Courts in Delhi, such as making websites accessible to all persons with a view to create an ecosystem where the official records of the Courts can be accessed by the public at large including those who, due to any disability, were precluded from accessing the same earlier. However, the appropriate Government has not taken any steps to enforce the duty as contained in clause (c) of Section 12(4) of the Act, which provides for ensuring availability of suitable facilities for recording of evidence or hearing arguments during trial etc. in any criminal or other case before a Court of law.</p> <p>...these deficiencies in the Act amount to infringement of the fundamental right of equality of persons with disabilities i.e. to have equal right to accessible and fair trial and judicial system as well as right to life and dignity by ensuring that they are not made to feel, even if unintentionally, that they are lesser than other citizens of this Country.</p>
48	Muruganatham vs State of Tamil Nadu Writ Petition Nos.22431 of 2021	Madras High Court, Single Judge	27.08.2021	26-31	The Rights of persons with Disability Act, 2016, is an enactment brought in with the awed object of providing such facilities to persons in need of care. The Act imposes an obligation on the part of the State to educate persons in charge of enforcement of law, particularly the Police Force by conducting training programmes to sensitize its members of the rights of persons with disabilities. To a

					<p>specific query from the petitioner regarding conduct of training programmes as required by the Rights of Persons with Disabilities Act, 2016, the person in charge of the Police Training College has replied in negative to the effect that no such training is imparted to the Police Officials by the Police Training College.</p> <p>Section 39 of the Rights of Persons with Disabilities Act, 2016, imposes an obligation on the Government to conduct sensitization programmes and awareness campaigns to ensure that the Rights of Persons with Disabilities provided under the Act are protected. To our dismay, we find that there is not enough done by the Government to achieve the objects of the enactment which had been enacted even in the year 2016. Though the enactment contains several measures to be taken by the appropriate Governments to protect the rights of the disabled persons, very little is being done to implement the provisions of the enactment. The very fact that no training or no sensitization programme has been held by the appropriate Government, as required under Section 39, shows that there has been callous indifference in implementing the provisions of the Act. Even on implementation of the directions of the Hon'ble Supreme Court with reference to arrest of individuals, we find the situation is no better.</p>
49	Patan Jamal Vali vs State of Andhra Pradesh Criminal Appeal No.452/2021	Supreme Court, Division Bench	27.04.2021	17-24, 26-29, 39, 43-45	<p>This is a landmark judgement recognising intersectional oppression on multiple axes, particularly that of gender, disability and caste. The Court laid down specific guidelines, and noted trends in the judicial approach that must change.</p> <p>39...In this regard, we set out below some guidelines to make our criminal justice system more disabled-friendly.</p> <p>(i) The National Judicial Academy and state judicial academies are requested to sensitize trial and appellate judges to deal with cases involving survivors of sexual abuse. This training should acquaint</p>

				<p>judges with the special provisions, concerning such survivors, such as those outlined above. It should also cover guidance on the legal weight to be attached to the testimony of such witnesses/survivors, consistent with our holding above. Public prosecutors and standing counsel should also undergo similar training in this regard. The Bar Council of India can consider introducing courses in the LL.B. program that cover these topics and the intersectional nature of violence more generally;</p> <p>(ii) Trained special educators and interpreters must be appointed to ensure the effective realization of the reasonable accommodations embodied in the Criminal Law Amendment Act, 2013. All police stations should maintain a database of such educators, interpreters and legal aid providers, in order to facilitate easy access and coordination;</p> <p>(iii) The National Crimes Record Bureau should seriously consider the possibility of maintaining disaggregated data on gender-based violence. Disability must be one of the variables on the basis of which such data must be maintained so that the scale of the problem can be mapped out and tailored remedial action can be taken;</p> <p>(iv) Police officers should be provided sensitization, on a regular basis, to deal with cases of sexual violence against women with disabilities, in an appropriate way. The training should cover the full life cycle of a case involving a disabled survivor, from enabling them to register complaints, obtain necessary accommodations, medical attention and suitable legal representation. This training should emphasize the importance of interacting directly with the disabled person concerned, as opposed to their care-taker or helper, in recognition of their agency; and</p> <p>(v) Awareness-raising campaigns must be conducted, in accessible formats, to inform women and girls with disabilities, about their rights when they are at the receiving end of any form of sexual abuse.</p>
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50	Smruti Tukaram Badade vs State of Maharashtra Criminal Appeal No. 1101 of 2019	Supreme Court, Two Judge Bench	11.01.2022		The Court gave an expanded meaning to the phrase 'vulnerable witness' contained in Clause 3 of the vulnerable witness deposition centres (VWDC) scheme formulated by the Delhi High Court so as to include categories of persons other than child witnesses, such as witnesses suffering from mental illness as defined under Section 2(s) of the Mental Healthcare Act of 2017 read with Section 118 of the Indian Evidence act and any speech or hearing impaired individual or a person suffering from any other disability who is considered to be a vulnerable witness by the competent court.
51	Suchita Srivastava v. Chandigarh Administration C.A. No 5845 of 2009	Supreme Court, Three Judge Bench	28.08.2009	20-21	This judgement addressed the reproductive rights of women with mental disabilities, affirming their right to make decisions regarding their bodies and reproductive health, and highlighting the need for informed consent.