(2025) 10 KH CK 0024

Kerala HC

Case No: Writ Petition (Civil) No.11345 Of 2019

Kerala Public Service Commission, Represented By Its Secretary		APPELLANT
	Vs	
National Human Rights Commission,		RESPONDENT

Date of Decision: Oct. 9, 2025

Acts Referred:

- Constitution of India, 1950 — Article 320
- Protection of Human Rights Act, 1993 — Section 12, 18

Hon'ble Judges: Nitin Jamdar, CJ; Basant Balaji, J

Bench: Division Bench

Advocate: P. C. Sasidharan, Arjun Raghavan, K. Shri Hari Rao, T.V. Vinu

Final Decision: Disposed Of

Judgement

Nitin Jamdar, CJ

1. A Malayalam daily newspaper dated 8 August 2014 published a report describing how the Kerala Public Service Commission (KPSC) conducted a Special Recruitment Test for physically challenged candidates at Manacaud, Thiruvananthapuram. The report included photographs showing candidates with locomotor disabilities struggling to climb to the second floor of the examination hall.

2. The National Human Rights Commission (NHRC) took suo motu cognizance of this report and issued a notice to the Secretary of the KPSC. The matter was considered during the NHRCâ€™s camp sitting at Thiruvananthapuram on 9 April 2015. After examining the report dated 7 April 2015 submitted by the Secretary of the KPSC and hearing the representatives of the State Government and the KPSC, the NHRC decided to issue a show cause notice under Section 18 of

the Protection of Human Rights Act, 1993. The notice called upon the Secretary to explain why compensation of ■1,000/- each should not be recommended for payment to the 290 physically challenged candidates. The Secretary of the KPSC filed a reply opposing the proposed compensation. His undated response was received by the NHRC on 13 July 2015. After considering the reply, the NHRC held that the KPSC had failed to provide disability-friendly facilities for the examination and that this amounted to a violation of the human rights of the candidates. Consequently, by an order dated 30 January 2019, the NHRC recommended payment of ■1,000/- each to the 290 candidates as a token of compensation. The KPSC has challenged this order in the present petition.

3. The Division Bench, by order dated 10 April 2019, admitted the petition, issued notice to the Respondents, and stayed the operation of the NHRCâ€™s order. When the matter came up on 8 January 2025, the Court noted that only the NHRC was shown as a Respondent and that the beneficiaries of the impugned order were not represented. Accordingly, the Court appointed Advocate Mr. T. V. Vinu as Amicus Curiae to assist the Court. The learned Amicus Curiae submitted his written arguments on 10 March 2025.

4. We have heard Mr. P. C. Sasidharan, the learned Standing Counsel for the Petitioner - KPSC, and Mr. T. V. Vinu, the learned Amicus Curiae.

5. The primary duty of the Public Service Commissions, as provided under Article 320 of the Constitution of India, is to conduct examinations for appointments to the services of the Union and the States, as the case may be. While discharging this duty, the Commissions have to remain conscious of the constitutional guarantees in Part III and the Directive Principles of State Policy in Part IV of the Constitution. When selecting venues for examinations meant for physically challenged candidates, the KPSC has to ensure that the chosen institutions have facilities suitable for their needs.

6. The KPSC conducted the examination on 6 August 2014 for persons with disabilities - an Optical Mark Recognition (OMR) test for the post of Lower Division Clerk (Special Recruitment). One of the centres selected for the test was the Teachers Training Institute, Manacaud, Thiruvananthapuram. Out of 400 registered candidates, 175 appeared for the test. Of these, 52 candidates were allotted rooms on the ground floor and 123 candidates were allotted rooms on the first floor. The physically challenged candidates faced serious difficulty in accessing the upper floors of the building. The lack of accessibility caused hardship to the candidates and amounted to a violation of their rights to life, liberty, equality, and dignity, as well as those of their attendants.

7. The KPSC contends that the NHRC erred in issuing a blanket direction to pay ■1,000/- each to all 290 candidates, without considering the degree or nature of their disability. It is true that the impugned order does not contain a specific discussion relating to each candidate. Apart from the question of whether compensation was justified on merits, the order has now become difficult to implement. The case was taken up by the NHRC on its own, and none of the beneficiaries were represented before the NHRC or this Court. No candidate has intervened in the proceedings, even though the order has remained stayed for six years. At this stage, tracing all 290 candidates to

effect payment of ■1,000/-each is practically impossible. The implementation of such an order, after the passage of six years, is, therefore, not feasible. Consequently, Exhibit-P2 order dated 30 January 2019 issued by the NHRC is quashed and set aside.

8. However, we are of the view that the matter should not end with this direction. The broader concern remains - ensuring that proper infrastructure is provided for persons with disabilities, particularly when selecting examination centres. The concern of the NHRC that examination halls should be accessible and disability-friendly deserves serious attention. With that larger objective in mind, we have proceeded to consider the issue further.

9. Chapter III of the Protection of Human Rights Act, 1993 (Act of 1993), sets out the functions and powers of the National Human Rights Commission. Under Section 12 of that Chapter, the Commission is empowered to inquire, either on its own (suo motu), on a petition filed by a victim or any person on their behalf, or on the direction of any court, into complaints of violation of human rights or abetment thereof. The Rights of Persons with Disabilities Act, 2016 (Act of 2016), reinforces the principles of equality, non-discrimination, and full participation of persons with disabilities in society. It seeks to ensure their accessibility, inclusion, and empowerment in education, employment, and public life. Any violation of these statutory rights amounts to a violation of human rights within the meaning of the Act of 1993.

10. The Act of 2016 has introduced the concept of reasonable accommodation. In the case of *Ravinder Kumar Dhariwal and Another v. Union of India and Others* (2023) 2 SCC 209, the Honâ€™ble Supreme Court observed that the principle of reasonable accommodation is one of the means for achieving substantive equality, pursuant to which physically challenged individuals have to be reasonably accommodated based on their individual capacities. In the case of *Mrs. Shanta Digambar Sonawane v. Union of India and Another* 2024 SCC OnLine Bom 662, the Division Bench of the Bombay High Court while dealing with the issue of scribe to a visually challenged candidate during the Maharashtra Public Service Commission examinations, invoked the concept of reasonable accommodation. It was observed that the concept of fairness in dealing with persons with disabilities is not only of treating them equally with others but of affirmative action. The principle of Reasonable Accommodation entails providing additional support and facilities to persons with disabilities. Simply stating that discrimination against persons with disabilities is prohibited is insufficient. Additional support is required to mitigate the impact of disabilities.

11. The Hon'ble Supreme Court, in the case of *Justice Sunanda Bhandare Foundation v. Union of India and Another* (2014) 14 SCC 383, has commented on the lack of sensitivity in implementing the provisions of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 (1995 Act) as under:

â€œ9. Be that as it may, the beneficial provisions of the 1995 Act cannot be allowed to remain only on paper for years and thereby defeating the very purpose of such law and legislative policy. The Union, States, Union Territories and all those upon whom obligation has been cast under the 1995 Act have to effectively implement it. As a matter of fact, the role of the governments in the matter such as this has to be proactive. In the matters of providing relief to those who

are differently abled, the approach and attitude of the executive must be liberal and relief-oriented and not obstructive or lethargic. A little concern for this class who are differently abled can do wonders in their life and help them stand on their own and not remain on mercy of others. A welfare State, that India is, must accord its best and special attention to a section of our society which comprises of differently abled citizens. This is true equality and effective conferment of equal opportunity.â€■

(emphasis supplied)

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Keeping this legal position in mind, the policies of the KPSC have to be structured so as to avoid recurrence of the incident.

12. This petition was adjourned from time to time, to enable the KPSC to file an additional affidavit regarding the steps that are being taken by it as regards the examination halls for the persons who are physically challenged. An affidavit is filed by the KPSC on 29 August 2025, reproducing the extract of the Circular No.33/2022 issued by it. Copy of the Circular has not been annexed, however, gist has been reproduced by the Secretary of the KPSC in its affidavit.

13. Since the controversy has arisen from the issue of accessibility for persons with locomotor disability, we restrict our enquiry to this aspect to be provided by the KPSC.

14. The extract of the relevant portion of the Circular as regards physical space has been reproduced as under:

â€œA. Allotment of Exam Centres

39. It is to be ensured that based on the number of differently-abled candidates who have applied for the post, maximum number of examination centres should be made available in their taluk/nearest online examination centre.

40. When entering examination centres on the server, the examination centreâ€™s phone number (if available) must be entered along with the address of the centre.

41. If the exam centres in each taluk recorded in the server are arranged in accordance with ease of accessibility, that will be convenient for the differently-abled candidates.

42. The Officer concerned at the Head Office/District Office/Regional Office should ensure that the examination centre has been allotted in the taluk/nearest online exam centre as requested by the differently-abled candidate.

43. Taking into account of the technical aspects, the Commission will take appropriate decision on the online exam centre to be allotted to the differently-abled candidate.

44. If there is no lift (elevator) facility in the exam centres allotted for the differently-abled candidates, facilities should be provided to write the examination in a room on the ground floor of the examination centre.

45. It should be ensured that there are ramp facilities in exam centres allotted for the differently-abled candidates.

xx xxx xxxx.â€■

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We take this Affidavit on record and the above-mentioned extract of the relevant portion of the Circular as the commitment of the KPSC in respect of providing accessibility to persons with locomotor disability.

15. We reiterate and direct that the Petitioner - Kerala Public Service Commission (KPSC) shall strictly comply with Circular No. 33/2022. In particular, based on the number of differently-abled candidates who have applied for a post, the KPSC shall ensure that the maximum number of examination centres are made available within the candidatesâ€™ taluk or in the nearest online examination centres. Where the examination centre does not have an elevator, arrangements shall be made for such candidates to write the examination in rooms located on the ground floor. It shall also be ensured that the examination centres allotted to differently-abled candidates have ramp facilities for easy access.

16. As stated in the Circular, the Chief Superintendents, Additional Chief Superintendents, and Assistant Superintendents deputed as invigilators and supervisors shall ensure strict compliance with these directions. Written instructions shall be issued to all Chief Superintendents and Assistant Superintendents regarding the implementation of these facilities for differently-abled candidates. The Additional Chief Superintendents and other officers deputed by the KPSC shall verify whether these instructions are properly implemented at the examination centres. If, by oversight, any physically disabled candidate is allotted a hall on an upper floor without lift or ramp access, immediate steps shall be taken to provide space for such candidates on the ground floor. The contact numbers of the concerned KPSC officers shall be prominently displayed at all examination centres so that candidates facing accessibility barriers can promptly reach out for assistance. This measure is essential, considering the time-bound nature of examinations.

17. The impugned order dated 30 January 2019 is accordingly set aside, subject to the re-affirmation of the obligations of the Petitioner - KPSC, and the assurance placed on record through the affidavit filed by its secretary.

18. The Writ Petition is disposed of.

19. We place on record our appreciation for the valuable assistance rendered by the learned Amicus Curiae.