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

+ W.P.(C) 2501/2019 & CM APPL. 11667/2019

NATIONAL PLATFORM FOR THE RIGHTS OF THE DISABLED
(NPRD0 THROUGH ITS GENERAL SECRETARY..... Petitioner

Through: Mr. Subhash Chandran KR.

versus

MINISTRY OF RAILWAYS AND ANR. Respondent

Through: Ms. Nidhi Mohan Parashar and Mr.
Vikrant Kumar, Advs. for R-2.

Mr. Dev P. Bhardwaj, CGSC with
Ms. Anubha Bhardwaj, Mr. Sachin
Singh and Ms. Divyanshi Srivastava,
Advs. for R-2.

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

ORDER

% **18.05.2023**

1. The Petitioner before this Court has filed the present writ petition as a Public Interest Litigation espousing the cause of specially abled people. The Petitioner has prayed for the following reliefs:

“i.Issue a writ/order/direction in the nature of mandamus or any other appropriate writ / order to set aside Commercial Circular No. 18 of 2015 bearing No. 2011/TG-I/10-e-ticketing for disables/Pt.I, New Delhi dated 19.03.2015 issued by the Respondent No.1, Indian Railway and also direct the Respondent No.1, Indian Railway to validate the UDID cards issued under the mandate of the RPD Act, 2016 for concession based ticketing for physically challenged (disabled) persons in compliance with article 14, 21 of the constitution of India and natural justice; and

ii. Pass any other order as this Hon'ble Court may deem fit and proper in the interest of justice. ”

2. The relief clause relates to grant of certain concessions in the matter of booking of tickets for physically challenged (disabled) persons. A detailed and exhaustive reply has been filed in the matter by Union of India.

3. The reply reveals that the Railways has extended concession in fare to more than 50 categories of passengers which includes 4 categories of Divyang Passengers, 11 type of patients, senior citizens, press correspondents, war widows, sports persons, etc. and the concession varies from 10% to 100%.

4. The relevant paragraphs of the affidavit filed by the Railways read as under:

“1. That as a welfare measure. Railway extends concession in passenger fare to more than 50 categories of passengers. There are 4 categories of Divyang passengers, 11 types of, patients, senior citizens. Press correspondents, war widows, sports persons etc. The element of concession varies from 10% to 100%. The detailed list of different categories of persons eligible for concession is Annexure-A-1.

2. That the Indian Railways grant concession to persons with disabilities (Divyangjan) in extreme cases only. As per extant Railway rules, the following categories of persons with disabilities (Divyangjan) are granted concession in passenger fares:-

<i>Sl No.</i>	<i>Divyang Passengers</i>		
	<i>Categories</i>	<i>Class and element of concession</i>	<i>As per available record introduced w.e.f.</i>
<i>1</i>	<i>Orthopaedically Handicapped/</i>	<i>• 75% in</i>	<i>Orthopaedically Handicapped</i>

	<i>Paraplegic persons who cannot travel without escort – *for any purpose</i>	<i>2nd, SL, 1st Class, 3AC, AC chair Car</i>	<i>w.e.f. 28.08.1961 Paraplegic persons: 23.04.1985</i>
2	<i>Mentally retarded persons who cannot travel without escort - *for any purpose</i>	<ul style="list-style-type: none"> • <i>50% in 1AC and 2AC,</i> • <i>25% in 3AC & AC Chair Car of Rajdhani/ Shatabdi trains</i> • <i>50% in MST & QST in First and Second Class</i> 	<i>01.01.1987</i>
3	<i>Person with visual impairment with total absence of sight travelling alone or with an escort - for any purpose</i>	<i>One escort is also eligible for same element of concession.</i>	<i>Prior to 1958</i>
4	<i>Person with</i>	• <i>50% in</i>	<i>01.06.1985</i>

	<p><i>Hearing and Speech Impairment totally (Both afflictions together in the same person) travelling alone or with an escort – for any purpose.</i></p>	<p><i>2nd, SL and 1st Class</i></p> <ul style="list-style-type: none"> • <i>50% in MST & QST in first and second class</i> <p><i>One escort is also eligible for same element of concession</i></p>	
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10. That it is pointed out here that revenue foregone due to concession being given to different categories of passengers are borne by Indian Railways. The total revenue foregone due to concession being given to different categories of passengers during 2018-19 is 1995 Crore. Out of these approximately Rs.137 Crores has been forgone for giving concession to only four categories of Divyangjan.

11. That the revenue foregone due to concession being given to Divyangjan during last four financial years are as under:-
(Rupees in Crores) (Approximate)

Category	Year			
	2015-16	2016-17	2017-18	2018-19
<i>Persons with Disabilities</i>	107.13	109.35	125.24	136.95

Source CRIS

19. That out of the above 22 categories, Railways provide concession to only four, categories of persons with disabilities that too in extreme cases. The eligible persons can travel unlimited journey from anywhere to anywhere and for any

purpose. The lists are re summarized as under:-

<i>1. Orthopaedically Handicapped/ Paraplegic persons who cannot travel without escort-Unlimited journey for any purpose.</i>
<i>2.Mentally retarded persons who cannot travel without escort - Unlimited journey for any purpose.</i>
<i>3.Person with Visual Impairment with total absence of sight travelling alone or with an escort - Unlimited journey for any purpose.</i>
<i>4. Person with Hearing and Speech Impairment totally (Both afflictions together in the same person) travelling alone or with an escort - Unlimited journey for any purpose.</i>

20. That apart from above, concessions are also given to 4 additional categories as mentioned in RPWD ACT 2016 1 Leprosy-(non infectious) 2. Sickle Cell Anaemia 3. Haemophillia 4. Thalassemia. But these concession are given only from residence to hospital and return on the, recommendation and certificate issued by doctors of the hospital. The certificates are valid only for onward and return journey. Unlimited journey, from anywhere to anywhere, for any purpose facilities similar to persons with disabilities are not provided in these cases. The concession In applicable classes and element of concessions for these four categories of passengers are as under;-

<i>Category of Patients</i>	<i>Element of concession</i>	<i>Purpose for which concession is admissible</i>
<i>1. Non-infectious Leprosy patients.</i>	<i>75% concession in Second, Sleeper & First class.</i>	<i>When called by recognised hospital for treatment or check-up and return</i>
<i>2. Sickle cell Anaemia</i>	<i>50% In Sleeper, AC Chair Car, AC 3-tier and AC 2-tier classes</i>	<i>When called by the recognized hospital ' for treatment/periodical check-up</i>
<i>3. Patients</i>	<i>75%</i>	<i>When called by</i>

<p><i>suffering from severe/moderate form of Hemophilia, when travelling alone or with an escort.</i></p>	<p><i>concession in Second, Sleeper, First, AC Chair Car, 3 AC classes One escort is also eligible for the same element of concession.</i></p>	<p><i>recognised hospital for treatment or check-up and return.</i></p>
<p><i>4. Thalassaemia patients travelling alone or with an escort.</i></p>	<p><i>75% in II, SL, 1, AC CC & 3 AC and 50% in 2 AC & 1 AC . One escort is also eligible for the same element of concession.</i></p>	<p><i>When called by recognised hospital for treatment or check-up and return.</i></p>

21. That in addition to the same the Railways also provide concession to 7 more categories of patients which are not listed in the RPWD Act 2016, which are as under:-

<p><i>Category of Patients</i></p>	<p><i>Element of concession</i></p>	<p><i>Purpose for which concession is admissible</i></p>
<p><i>1. Cancer patients travelling alone or with an escort.</i></p>	<p><i>100% concession in Sleeper, SAC and 75% concession in II I and AC CC and 50% in 2AC & 1 AC . One escorts is also eligible for 75% concession in II, SL, I, AC CC&</i></p>	<p><i>When called by recognised hospital for treatment or check-up and return.</i></p>

	<i>3 AC and 50% in 2 AC & IAC.</i>	
<i>2. Heart patients travelling alone or with an escort.</i>	<i>75% in II, SL, I, AC CC & 3 AC and 50% in 2 AC & 1 AC . One escort is also eligible for the same element of concession.</i>	<i>When called by recognised hospital for heart surgery and return.</i>
<i>3. Kidney patients travelling alone or with an escort.</i>	<i>75% in II, SL, I, AC CC & 3 AC and 50% in 2 AC & 1 AC. One escort is also eligible for the same element of concession.</i>	<i>When called by recognised hospital for Kidney Transplant Operation or Dialysis and return.</i>
<i>4. T.B./Lupas Valgaris patients travelling alone or with an escort.</i>	<i>75% concession in Second, Sleeper & First class. One escort is also eligible for the same element of concession.</i>	<i>When called by recognised hospital for treatment or check-up and return.</i>
<i>5. Aids patients -</i>	<i>50% concession in second class</i>	<i>When called by the ART Centres for treatment checkup, and return.</i>
<i>6. Aplastic Anaemia</i>	<i>50% In Sleeper, AC Chair Car, AC 3-tier and AC 2-tier classes</i>	<i>When called by the recognized hospital for treatment/periodical check-up</i>
<i>7 Ostomy patients -</i>	<i>50% in MSI & QST</i>	<i>Travelling for any purpose.</i>

26. That it is further submitted that the mandate for allowing concession in passenger fare as per RPWD Act lies with department of empowerment of persons with disabilities, Ministry of social justice and empowerment therefore Ministry of social justice and empowerment may decide the same and Railways will provide full assistance in implementation of the same. ”

5. Section 58 of the Rights of Persons with Disabilities Act, 2016 provides for certification in respect of persons having disability. Section 58 of the Rights of Persons with Disabilities Act, 2016 reads as under:

“(1) Any person with specified disability, may apply, in such manner as may be prescribed by the Central Government, to a certifying authority having jurisdiction, for issuing of a certificate of disability.

(2) On receipt of an application under sub-section (1), the certifying authority shall assess the disability of the concerned person in accordance with relevant guidelines notified under section 56, and shall, after such assessment, as the case may be,—

(a) issue a certificate of disability to such person, in such form as may be prescribed by the Central Government;

(b) inform him in writing that he has no specified disability.

(3) The certificate of disability issued under this section shall be valid across the country.”

6. The aforesaid statutory provision of law makes it very clear that the certificate is issued certifying the disability and the certificate is valid across India.

7. The Railways has issued a circular dated 19.03.2015 and in order to ensure that disabled persons are not required to submit their disability certificate each and every time while buying a ticket, a policy decision has

been taken by the Railways to issue a Photo Identity Card for the purpose of purchase of tickets and the Photo Identity Card is issued on the basis of certificate of disability issued under Section 58 of the Rights of Persons with Disabilities Act, 2016.

8. In the considered opinion of this Court, the procedure adopted by the Railways is a fair and transparent procedure and in fact, the circular dated 19.03.2015 has been issued by the Railways to ensure that a disabled person is not required to show the disability certificate every time while buying a ticket.

9. This Court does not find any reason to interfere with the circular dated 19.03.2015 issued by the Railways and, therefore, no further orders are required to be passed in the present PIL and the same stands disposed of accordingly.

SATISH CHANDRA SHARMA, CJ

SUBRAMONIUM PRASAD, J

MAY 18, 2023

N.Khanna