



**HIGH COURT OF TRIPURA
A G A R T A L A**

WP(C) No.694 of 2024

Sri Joyjit Chowdhury,

S/O Lt. Bidhu Bhushan Chowdhury, R/O Matabari, P.O. Matabari, P.S. R.K. Pur, Dist. Gomati, PIN 799013, Aged about 45 years

....**Petitioner(s)**

Versus

1. **The State of Tripura,**
Represented by it's Principal Secretary, Department of Labour, Govt. of Tripura, P.O. Secretariat, P.S. New Capital Complex, Dist. West Tripura, PIN 799010.
2. **The Director,**
Directorate of Employment Services and Manpower Planning, Govt. of Tripura, P.O. Agartala, P.S. West Agartala, Dist. West Tripura, PIN 799001.
3. **The Joint Recruitment Board of Tripura,**
Represented by it's Member Secretary, Directorate of Employment Services and Manpower Planning, Govt. of Tripura, P.O. Agartala, P.S. West Agartala, Dist. West Tripura, PIN 799001.
4. **The Controller,**
Joint Recruitment Board of Tripura, Directorate of Employment Services and Manpower Planning, Govt. of Tripura, P.O. Agartala, P.S. West Agartala, Dist. West Tripura, PIN 799001.
5. **Sri Tapan Biswas,**
S/O Sachindra Chandra Biswas.
6. **Sri Bishnu Pada Das,**
S/O Kripesh Chandra Das.
7. **Smt. Lovely Bardhan,**
D/O Chandan Bardhan.
8. **Sri Amarendra Rieng,**
S/O Lt. Khagendra Rieng.
9. **Sri Bikash Rieng,**
S/O Saduram Rieng.
10. **Sri Baku Mog,**
S/O Ruio Mog.
11. **Sri Prasenjit Debbarma,**
S/O Lt. Bishuram Debbarma.
12. **Smt. Sapi Dabbarma,**
D/O Mohan Singh Debbarma.

Notice upon Respondent No.5-12 to be served through the Respondent No. 3.

....**Respondent(s)**

WP(C)No.695 of 2024

Sri Joyjit Chowdhury,

S/O Lt. Bidhu Bhushan Chowdhury, R/O Matabari, P.O. Matabari, P.S. R.K. Pur, Dist. Gomati, PIN 799013, Aged about 45 years.

....**Petitioner(s)**

Versus

1. **The State of Tripura,**
Represented by it's Principal Secretary, Department of Labour, Govt. of Tripura, P.O. Secretariat, P.S. New Capital Complex, Dist West Tripura, PIN 799010.
2. **The Director,**
Directorate of Employment Services and Manpower Planning, Govt. of Tripura, P.O. Agartala, P.S. West Agartala, Dist. West Tripura, PIN 799001.
3. **The Joint Recruitment Board of Tripura,**
Represented by it's Member Secretary, Directorate of Employment Services and Manpower Planning, Govt. of Tripura, P.O. Agartala, P.S. West Agartala, Dist. West Tripura, PIN 799001.
4. **The Controller,**
Joint Recruitment Board of Tripura, Directorate of Employment Services and Manpower Planning, Govt. of Tripura, P.O. Agartala, P.S. West Agartala, Dist. West Tripura, PIN 799001.

....**Respondent(s)**

WP(C)No.784 of 2024

1. **Sri Ranjit Debnath,**
S/O Lt. Sarat Chandra Debnath, R/O Ichachara, P.O. Ichachara, P.S. Kakraban, Dist Gomati, PIN 799105, Aged about 48 years approx.
2. **Sri Santi Prasad Das,**
S/O Lt. Rama Prasad Das, R/O Durjoynagar, Airport Road, Near Nursing Institute, P.O. Durjoynagar, P.S. New Capital Complex, Dist. West Tripura, PIN 799009, Aged about 44 years approx.

....**Petitioner(s)**

Versus

1. **The State of Tripura,**
Represented by it's Principal Secretary, Department of Labour, Govt. of Tripura, P.O. Secretariat, P.S. New Capital Complex, Dist West Tripura, PIN 799010.
2. **The Director,**
Directorate of Employment Services and Manpower Planning, Govt. of Tripura, P.O. Agartala, P.S. West Agartala, Dist. West Tripura, PIN 799001.
3. **Joint Recruitment Board of Tripura,**
Represented by it's Member Secretary, Govt. of Tripura, P.O. Agartala, P.S. West Agartala, Dist. West Tripura, PIN 799001.

4. **The Controller,**
Joint Recruitment Board of Tripura, Govt. of Tripura, P.O. Agartala,
P.S. West Agartala, Dist. West Tripura, PIN 799001.
5. **Sri Badal Tripura,**
S/O Jashu Mohan Tripura.
6. **Smt. Tuhina Kalai,**
D/O Sri Gurudhan Kalai.
7. **Sri Durjadhan Debbarma,**
S/O Sri Biswa Kumar Debbarma.
8. **Sri Babu Mog,**
S/O Lt. Chaila Mog.
9. **Smt. Happy Jamatia,**
D/O Hemanta Kumar Jamatia.
10. **Smt. Asha Chakma,**
D/O Ananda Chakma.
11. **Sri Tapas Tripura,**
S/O Topal Tripura.

Notice upon the Respondents No.5 to 11 to be served through the
Respondent No. 3.

....Respondent(s)

WP(C)No.785 of 2024

Sri Rajesh Chakraborty,
S/O Sri Asish Chakraborty, R/O Badarmukam, P.O. & P.S. R.K. Pur, Dist.
Gomati Tripura, PIN 799120, Aged about 39 years.

....Petitioner(s)

Versus

1. **The State of Tripura,**
Represented by it's Principal Secretary, Department of Labour, Govt. of
Tripura, P.O. Secretariat, P.S. New Capital Complex, Dist. West
Tripura, PIN 799010.
2. **The Director,**
Directorate of Employment Services and Manpower Planning, Govt. of
Tripura, P.O. Agartala, P.S. West Agartala, Dist. West Tripura, PIN
799001.
3. **Joint Recruitment Board of Tripura,**
Represented by it's Member Secretary, Govt. of Tripura, P.O. Agartala,
P.S. West Agartala, Dist. West Tripura, PIN 799001.
4. **The Controller,**
Joint Recruitment Board of Tripura, Govt. of Tripura, P.O. Agartala,
P.S. West Agartala, Dist. West Tripura, PIN 799001.
5. **Sri Baku Mog,**
S/O Ruio Mog.
6. **Sri Prasenjit Debbarma,**
S/O Lt. Bishuram Debbarma.

7. **Smt. Sapi Debbarma,**
D/O Mohan Singh Debbarma.

Notice upon Respondents No. 5 to 7 to be served through the Respondent No. 3.

....Respondent(s)

For the Petitioner(s) : Mr. Arijit Bhaumik, Advocate.

For the Respondent(s) : Mr. Mangal Debbarma, Addl. G.A.
Mr. D. Sarma, Addl. G.A.

Date of hearing : **24th February, 2026.**

Date of delivery of Judgment & Order : **30th April, 2026.**

Whether fit for reporting :

YES	NO
√	

HON'BLE MR. JUSTICE S. DATTA PURKAYASTHA

JUDGMENT & ORDER

Since common issues are involved in all the writ petitions, they were heard together and are being disposed of by this common judgment.

[2] In WP(C) 694 of 2024, the JRBT issued an advertisement for filling up 2500 posts of Multi Tasking Staff, Group-D (category non-technical) in various departments of the Government of Tripura, vide advertisement No.2/2020, dated 03.12.2020 (Annexure 1 to WP(C) No.694 of 2024 which is being treated to be the lead case). In the said advertisement, it was mentioned that the State Government policy on reservation shall be followed.

[3] The JRBT also later on issued another advertisement bearing No. Nil, dated 12.02.2021 [Annexure-1 to WP(C) No.695 of 2024] for filling up 1500 posts of LDC, 22 posts of Agriculture Assistant (except TAFS Grade-III), 443 posts of Agriculture Assistant (TAFS Grade-III), 236 posts of Junior Operator (Pump) and 209 posts of Junior Multi Tasking Operator (Un-common), in total 2410 nos. of posts. In that advertisement also, it was also mentioned that reservation of the post would be as per the reservation roster maintained by the concerned departments and as per the State Government reservation policy and the same would be notified later.

[4] There is no dispute between the parties that in both the cases 4% of total vacancies would be kept reserved for the persons with benchmark disabilities under the provisions of the Rights of Persons with Disabilities Act, 2016 (For short, the RPwD Act).

[5] The petitioner of WP(C) 694 of 2024 and WP(C) 695 of 2024, is the same person, namely, Joyjit Chowdhury. He applied for the post of Multi Tasking Staff (Group-D), LDC, Agriculture Assistant (except TAFS Grade-III), Agriculture Assistant (TAFS Grade-III). According to him, he is suffering from benchmark disability under category of low vision and visual impairment as per clause (a) of Section 34 of the Act, 2016. He has asserted that he qualified in both the written examinations and thereafter appeared in interview and against the post of Multi Tasking Staff, he scored total 49.738 marks, which was the aggregate of both the results of written as well as of viva voce. Against the post of LDC and other Group-C posts as mentioned above, he similarly scored 86 marks. But while the JRBT issued the final selection list under the notification dated 07.09.2024 (Annexure 3 to the lead case) regarding filling up of the post of Multi Tasking Staff, one Tapan Biswas, respondent No.5 who is an SC (PH) category of candidate having similar disability under Clause (a) was recommended for selection though he scored total 49.682 marks which is lesser than the marks scored by him. Similarly, another Bishnu Pada Das, respondent No.6 who is SC (PH) category candidate and is having similar nature of disability, was recommended for selection despite having lesser marks. Likewise, one Smt. Lovely Bardhan, respondent No.7 shown as SC (PH) category, Amarendra Reang, respondent No.8 shown as ST (PH) category and Bikash Reang, respondent No.9 shown as ST(PH) category having similar disability were also likewise recommended though they also scored lesser marks. There are also some other persons in the list similar to them who are arrayed as private respondents herein.

[6] In WP(C) No.695 of 2024 for filling up of Group-C posts as indicated earlier, the JRBT published the result of final selection vide notification dated 13.09.2023 [Annexure-3 to WP(C) 695 of 2024] and according to the petitioner, the last candidate who was selected from PH reserved category with such benchmark disability under Clause (a), scored total 87 marks which is higher than the marks scored by the petitioner but his

grievance is that after filling up of those posts, even further 7 posts are lying vacant under blindness and low vision category, but still he has not been selected.

[7] In case No. WP(C) 784 of 2024, the petitioner no.1, namely, Sri Ranjit Debnath participated in the selection process as involved in WP(C) 694 of 2024 regarding filling up of the post of Multi Tasking Staff (Group-D) and he scored 50.529 marks and petitioner No.2, namely, Sri Santi Prasad Das scored total 40.258 marks respectively. Both of them fall within the category of locomotor disability. It is their case that the last person appointed in the said category scored 42.5707 marks, and therefore, the petitioner No.1 was similarly deprived of from getting selection despite having higher marks. However, it appears that petitioner No.2 scored lesser marks than the last selected candidate.

[8] In WP(C) 785 of 2024, the petitioner also participated in the said selection process for selection against the post of Multi Tasking Staff (Group-D) in PH category of low vision/blindness under Clause (a) and he scored 37.109 marks and the last recommended candidate in the said category scored 33.7102 marks.

[9] Mr. A. Bhaumik, learned counsel for the petitioners refers to an Office Memo. dated 09.01.2019, issued by the Social Welfare and Social Education Department (Annexure A to the rejoinder affidavit submitted in the lead case) and submits that as per clause 9.1 and 9.2 of said memorandum any persons with benchmark disability are required to be accommodated in horizontal reservation which cut across the vertical reservation and as per said instructions, the persons selected against the quota for reservation with benchmark disability are required to be placed against the appropriate category viz. SC/ST/UR in the roster meant for reservation of SCs and STs, depending upon the category to which they belong.

[10] Mr. Bhaumik, learned counsel also draws attention of this Court to clause No. 12 of said Memo. which further elaborates the procedure of making the final merit list in this regard. According to learned counsel, JRBT has erroneously treated such reservation under the RPwD Act, 2016 as vertical reservation, and therefore, wrongly selected some persons under said

categories despite, they scored lesser marks than the petitioners, except petitioner No.2 of WP(C) No.784 of 2024, and ultimately, deprived them from their genuine claim of getting selected.

[11] To support his contention, Mr. Bhaumik, learned counsel relies on a decision of Hon'ble Supreme Court in the case of ***Indra Sawhney and others vs. Union of India and others; 1992 Supp (3) SCC 217***, wherein the Hon'ble Supreme Court, at Paragraph No.812, observed as under:

"812. We are also of the opinion that this rule of 50% applies only to reservations in favour of backward classes made under Article 16(4). A little clarification is in order at this juncture: all reservations are not of the same nature. There are two types of reservations, which may, for the sake of convenience, be referred to as 'vertical reservations' and 'horizontal reservations'. The reservations in favour of Scheduled Castes, Scheduled Tribes and other backward classes [under Article 16(4)] may be called vertical reservations whereas reservations in favour of physically handicapped [under Clause (1) of Article 16] can be referred to as horizontal reservations. Horizontal reservations cut across the vertical reservations-what is called interlocking reservations. To be more precise, suppose 3% of the vacancies are reserved in favour of physically handicapped persons; this would be a reservation relatable to clause (1) of Article 16. The persons selected against this quota will be placed in the appropriate category; if he belongs to SC category he will be placed in that quota by making necessary adjustments; similarly, if he belongs to open competition (OC) category, he will be placed in that category by making necessary adjustments. Even after providing for these horizontal reservations, the percentage of reservations in favour of backward class of citizens remains - and should remain - the same. This is how these reservations are worked out in several States and there is no reason not to continue that procedure."

[12] Learned counsel further relies on ***Rajesh Kumar Daria vs. Rajasthan Public Service Commission and others; (2007) 8 SCC 785***, wherein at paragraph No.8, the manner of accommodating the horizontal reservation into vertical reservation was explained by the Apex Court, in the following manner:

"8. We may also refer to two related aspects before considering the facts of this case. The first is about the description of horizontal reservation. For example, if there are 200 vacancies and 15% is the vertical reservation for SC and 30% is the horizontal reservation for women, the proper description of the number of posts reserved for SC, should be: "For SC: 30 posts, of which 9 posts are for women." We find that many a time this is wrongly described thus: "For SC: 21 posts for men and 9 posts for women, in all 30 posts." Obviously, there is, and there can be, no reservation category of "male" or "men"."

[13] In the case of ***Rekha Sharma vs. Rajasthan High Court, Jodhpur and another; 2024 SCC OnLine SC 2109*** at paragraph No.13 it was also similarly observed that in view of the clarification made in ***Indra Sawhney (supra)*** that the reservation for persons with disability has been treated as horizontal reservation i.e. reservation under Clause (1) of Article 16 and not the vertical reservation i.e. the reservation under Clause (4) of Article 16 of the Constitution. The concept of compartmentalized horizontal reservation and overall horizontal reservation are also discussed therein. The relevant paragraph Nos.13 and 14 are relevantly extracted hereunder:

“13. Thus, in view of the said clarification made in ***Indra Sawhney***, there remains no doubt that the reservation for persons with disabilities would be relatable to Clause (1) of Article 16 and the persons selected against this quota will be placed in appropriate category i.e. if he/she belongs to Scheduled Category, he/she will be placed in that category by making necessary adjustments, and if he/she belongs to open category, necessary adjustments will be made in the open category.

14. The concept of Overall Reservations and Compartmentalised Reservations is also aptly explained by this Court in ***Anil Kumar Gupta v State of U.P., (1995) 5 SCC 173***. It has been observed therein that where the seats reserved for the Horizontal Reservations are proportionately divided amongst the Vertical (Social) Reservations and are not intertransferable, it would be a case of Compartmentalised Reservations, whereas in the Overall Reservation, while allocating the special reservation candidates to their respective social reservation category, the Overall Reservation in favour of special reservation categories has to be honoured. Meaning thereby the special reservations cannot be proportionately divided among the Vertical (Social) reservation categories, and the candidates eligible for special reservation categories have to be provided overall seats reserved for them, either by adjusting them against any of the Social/Vertical reservations or otherwise, and thus they are intertransferable.”

[14] In the case of ***Tishan Jangid vs. High Court of Judicature for Rajasthan and another; 2024 SCC OnLine SC 4826*** as relied on by Mr. Bhaumik, learned counsel, it appears that at paragraph No.7 reference was made to both ***Rekha Sharma (supra)*** and ***Indra Sawhney (supra)*** to the effect that reservation for the physically challenged category are horizontal in nature in the sense that they cut across vertical reservations. The persons selected against this quota will be placed in the appropriate category so that if a candidate, for instance, belongs to SC category, such a candidate will be placed in that quota by making necessary adjustments. In other words, once selected, the candidate would be placed in the category to which he or she belongs after making necessary adjustments.

[15] Finally, learned counsel also relies on another decision of a Coordinate Bench of this Court in case of **Shri Prabir Datta vs. the State of Tripura and others; WP(C) No.1166 of 2016**, decided on 07.02.2017, wherein principle of reservation for persons with disability was lucidly explained at paragraph Nos. 9 and 10, which read thus:

“[9] After appreciating the contentions of the learned counsel for the parties, it appears that the process that has been followed by the respondents is not in conformity to the provisions of Sections 32 and 33 of the said act. The reservation for backward classes is called vertical reservation and the reservation for the persons with disability (PWDs) and Ex-serviceman is called horizontal reservation. The horizontal reservation cuts across the vertical reservation and that process is called interlocking reservation. The persons selected against the quota for the persons with disabilities (PWDs) have to be placed in the appropriate category viz. SC/ST/UR depending on the category to which they belonged in the roster, meaning for reservation of SCs/STs etc. To illustrate, if any given year, there are 2(two) vacancies reserved for the persons with disabilities (PWDs) and out of two persons with disabilities (PWDs) so appointed, one belongs to SC and the other to the unreserved category, then the disabled SC candidate shall be adjusted against the SC point against the reservation roster and the unreserved category against unreserved point in the relevant reservation roster. In case, none of the vacancies falls on point to reserve for the SC, the PWD belonging to SC shall be adjusted in future against the next available vacancy reserved for SC. Thus, it is amply clear that initially the posts/vacancies will not be earmarked for reserved category even following the 4 Cycles of 100 Point Roster. In this regard, in **Rajeev Kumar Gupta and others vs. Union of India and others**, reported in AIR 2016 SC 3228, the apex court has observed as under:

“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.”

[Emphasis added]

[10] Again in **Rajeev Kumar Gupta (supra)** it has been held that Article 16(1) is an instance of classification. The principle is that the State shall not discriminate (which normally includes preference) on the basis of any one of the factors mentioned in Article 16(1). Article 16(4) does not disable the State from providing differential treatment (reservations) to other classes of citizens under Article 16(1) if they otherwise deserve such treatment. It may, therefore, be said that the reservation under Article 16(1) of the Constitution carves out an exception from the reservation as provided being enabled by Article 16(4) of the Constitution. Hence, before selection and recruitment,

the reservation for backward classes [such as SCs/STs] cannot be applied to the identified posts for the persons with disability (PWDs). Initially, they shall be selected and recruited and thereafter, considering their status they shall be adjusted in the 4 Cycles of 100 Point Roster by way of interlocking reservation.”

[16] Mr. Bhaumik, learned counsel, therefore, prays for necessary direction to the respondents for considering the cases of the petitioners for their selection against the post of Multi Tasking Staff (Group-D) and also for LDC and other posts, under Group-C category in case of Joyjit Chowdhury [petitioner of WP(C) 695 of 2024].

[17] Mr. Mangal Debbarma, learned Addl. GA representing the State respondents in WP(C) No.694 of 2024, WP(C) No.784 of 2024 and WP(C) No.785 of 2024, in his reply refers to paragraph No.2 of Office Memorandum dated 09.01.2019 (Annexure-A of the lead case) which is extracted hereunder:

“2. **QUANTUM OF RESERVATION**

2.1 In case of direct recruitment, four per cent of the total number of vacancies to be filled up by direct recruitment, in the cadre strength in each group of posts i.e. Groups A,B,C and D shall be reserved **horizontally** for persons with benchmark disabilities.

2.2 Against the posts identified for each disabilities of which, one per cent each shall be reserved for persons with benchmark disabilities under clauses (a), (b), and (c) and one per cent, under clauses (d) and (e), unless excluded under the provisions of Para 3 hereunder.

- (a) blindness and low vision;
- (b) deaf and hard of hearing;
- (c) locomotor disability including cerebral palsy, leprosy cured, dwarfism, acid attack victims and muscular dystrophy;
- (d) autism, intellectual disability, specific learning disability and mental illness;
- (e) multiple disabilities from amongst persons under clauses (a) to (d) including deaf-blindness.”

[18] Mr. Debbarma, learned Addl. GA also refers to clause No. 9 of the said Office Memorandum and submits that in the case in hand horizontal reservation has been made in terms of Office Memorandum dated 09.01.2019

and also in the spirit of the provisions of “Rights of Persons with Disabilities Act, 2016” and therefore, prior to final selection of persons in disability category, posts have been earmarked as to how they will be accommodated against UR category, against SC category and also against ST category and therefore, no anomaly has been committed by the JRBT authority. Learned Addl. GA further submits that at the time of filling up of the application form for applying for the posts under disability quota, the applicants were also asked to mention as to which category they belonged i.e. UR, SC or ST category, so that they could be accommodated accordingly against the posts earmarked for disabled persons against UR, SC or ST category.

[19] Mr. D. Sarma, learned Addl. G.A. representing the State respondents in WP(C) No.695 of 2024 also submits that the respondents JRBT properly made the selection procedure in accordance with the provision of the Tripura Scheduled Castes and Scheduled Tribes Reservation Act, 1991 and also by effecting horizontal reservation for physically challenged persons in accordance with the RPwD Act, 2016. He further relies on a decision of Hon’ble Supreme Court in case of **Union of India and another vs. National Federation of the Blind and others; (2013) 10 SCC 772**. In said case, the issue raised was whether three per cent reservation for persons with disabilities should be of the total cadre strength or whether it should be three per cent of the vacancies arising in the posts which were identified for the persons with disabilities. Hon’ble Supreme Court decided the issue holding that computation of reservation for persons with disabilities had 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” and further held that the reservation for persons with disabilities had nothing to do with the ceiling of 50% and hence, the law laid down in *Indra Sawhney* in this regard was not applicable with respect to the disabled persons.

[20] Mr. Sarma, learned Addl. G.A. also relies on another decision of Hon’ble Supreme Court in case of **Rajeev Kumar Gupta and others vs. Union of India and others; (2016) 13 SCC 153**. In said case, the employees of Prasar Bharati Corporation of India filed the writ petition challenging two office Memoranda issued by the Department of Personnel and Training, Government of India with grievance that those Memoranda deprived them of

statutory benefit of reservation under the 1995 Act with reference to Group A and Group B posts in Prasar Bharati. One of the said Memoranda provided for three per cent reservation in identified posts falling in Group C and Group D irrespective of the mode of recruitment but such benefit of reservation was excluded in respect of Group A and Group B posts. Finally, Hon'ble Supreme Court held that such Memoranda were illegal and the Government was directed to extend three per cent reservation to PWD in all identified posts in Group A and Group B, irrespective of mode of filling up of such posts. It was also observed by the Apex Court that a combined reading of Sections 32 and 33 of the 1995 Act explicated a fine and designed balance between the requirements of administration and the imperative to provide greater opportunities to PWD. Therefore, the identification exercised under Section 32 of the Act is crucial and once a post is identified, reservation under Section 33 to an extent of not less than three per cent must follow.

[21] Mr. Sarma, learned Addl. G.A. lastly relies on another decision of Division Bench of this Court in the case of ***the State of Tripura and others vs. Md. Suruk Ali (WA No.451 of 2020 decided on 11.12.2023)*** wherein learned Writ Court observed that 24 numbers of Group-C posts meant for scheduled tribes/hearing category was lying vacant whereas the writ petitioner was an UR category candidate with locomotor disability. Learned Writ Court in that context, held that physically handicapped persons themselves form a different class and total 119 numbers of posts were kept reserved for this class of person. Further, reservation for a particular class i.e., for hearing category persons was not permissible in law and the advertisement as issued by the State-respondents only classified the physically disabled persons as eligible for being appointed to those posts. Further observation of learned Writ Court was also that the respondents while issuing advertisement did not specify the number of posts to be reserved for persons having any particular type of disability and having found no such stipulation in the advertisement, the petitioner deserved to be considered for appointment against the vacant posts, and as 24 numbers of post under Group-C category was still lying vacant, the State-respondents were directed to consider the case of the petitioner sympathetically, and appoint him in any Group-C posts within the said 24 posts. The Division Bench set aside the judgment of the learned Writ Court taking note of the fact that said 24 posts belonged to hearing disability in ST

category whereas the petitioner belonged to the unreserved category and suffered from locomotor disability. The Division Bench therefore held that the learned Writ Court fell in error in treating the vacant post of ST hearing category as available for being considered for appointment of a person who suffered from locomotor disability in the unreserved category and therefore, said order of appointment of the petitioner in hearing category was not permissible.

[22] This Court has appreciated the submissions of both sides. Before entering into the legal issue as involved, the way as to how the Directorate of Social Welfare and Social Education ascertained said vertical reservation and horizontal reservation in respect of these two selection processes, requires a reference.

[23] It is submitted from the bar that the Directorate of Social Welfare and Social Education Department is the nodal department who takes the task of ascertaining the number of posts earmarked under horizontal reservation. As per the advertisements, there were total 2410 vacant posts for Group-C and total 2500 vacant posts for Multi Tasking Staff (Group-D) which were required to be filled up. Regarding filling up of those posts, when matter was referred to Social Welfare and Social Education Department, they calculated the horizontal reservation in terms of the guidelines dated 09.01.2019 in the following manner which was communicated by them vide their letter dated 29.11.2021 (Annexure R-6 of the lead case).

Group C		A	B	C	D	TOTAL of each category
Category	Reservation	(a) blindness and low vision	(b) deaf and hard of hearing	(c) locomotor disability including cerebral palsy, leprosy cured, dwarfism, acid attack victims and muscular dystrophy	(d) autism, intellectual disability, specific learning disability and mental illness; (e) multiple disabilities from amongst persons under Column (A) to (D) including deaf-blindness in the posts identified for each disabilities.	
UR	50	12	12	14	12	50
ST	30	7	7	9	7	30
SC	16	4	4	4	4	16
Total	96	23	23	27	23	

Group D		A	B	C	D	TOTAL of each category
Category	Reservation	(a) blindness and low vision	(b) deaf and hard of hearing	(c) locomotor disability including cerebral palsy, leprosy cured, dwarfism, acid attack victims and muscular dystrophy	(d) autism, intellectual disability, specific learning disability and mental illness; (e) multiple disabilities from amongst persons under Column (A) to (D) including deaf-blindness in the posts identified for each disabilities.	
UR	52	13	13	13	13	52
ST	31	8	7	8	8	31
SC	17	4	4	5	4	17
Total	100	25	24	26	25	

This chart is contained in the letter of Directorate of Social Welfare and Social Education Department communicated to the Chairman of JRBT dated 29.11.2021 (Annexure-R-6) of the Counter Affidavit of the lead case.

[24] As already discussed earlier, initially, the JRBT issued advertisement dated 03.12.2020 for filling up 2500 numbers of vacant post of Multi Tasking Staffs, Group-D (non-technical) under Annexure 1 of WP(C) No.694 of 2024 wherein it was further mentioned that the State Government policy on reservation shall be followed. Another advertisement was subsequently issued by JRBT on 12.02.2021 [Annexure 1 of WP(C) No. 695 of 2024] in modification of earlier advertisement No.01/2020 dated 27.11.2020 regarding filling up of 1500 number vacant post of LDC. In the subsequent advertisement dated 12.02.2021, apart from those 1500 numbers of posts of LDC, further new posts of Agricultural Assistant (Except TAFS Grade-III) (22 posts), Agricultural Assistant (TAFS Grade-III) (443 posts), Junior Operator (Pump) (236 posts) and Junior Multi Tasking Operator (Un-common) (209 posts), total 2410 numbers of vacant Group-C (non-gazetted) posts were advertised. The petitioner of WP(C) No.694 of 2024 first applied for the post of Multi Tasking Staff (Group-D) pursuant to said advertisement dated 03.12.2020 and again he applied for the Group-C post against advertisement dated 12.02.2021. He is a candidate of low vision category. In said examination for the Group-D posts, the petitioner Joyjit Chowdhury obtained total 49.738 marks but said selection list under Annexure 3 shows that one

Tapan Biswas (SC) who obtained 49.682 marks with benchmark disability-blindness, another Bishnu Pada Das (SC) with benchmark disability-blindness who obtained 49.627 marks, one Lovely Bardhan (SC) with benchmark disability-low vision who obtained 49.1282 marks, another Amarendra Reang (ST) with benchmark disability-visual impairment who obtained 46.0357 marks, another Bikash Reang (ST) with benchmark disability-blindness who obtained 42.139 marks, another Baku Mog (ST) with benchmark disability-low vision who obtained 36.666 marks and another Sapi Debbarma (ST) with benchmark disability-low vision who obtained 33.7102 marks were selected despite they scored lesser mark than the present petitioner. Even in the said notification, it was further mentioned that three numbers of vacant posts against benchmark disability of blindness and low vision meant for ST category of candidate could not be filled up and left vacant. Thus, what appears from above said select list is that the JRBT did not consider the merit of the candidates, rather before the selection process was complete, they already earmarked the posts meant for disabled persons quota in the vertical reservation of UR, SC and ST category and therefore, despite securing lesser mark than the petitioner, those persons were declared selected for said posts.

[25] In case of WP(C) No.784 of 2024, the petitioners namely, Ranjit Debnath (UR category) and Santi Prasad Das (SC category) also applied for the post of Multi Tasking Staff (Group-D) against the said advertisement No.02/2020 dated 03.12.2020 like said Joyjit Chowdhury and both of them are having locomotor disability. Ranjit Debnath scored total 50.529 marks and Santi Prasad Das obtained total 40.258 marks whereas one person namely, Badal Tripura (ST) with benchmark disability-locomotor disability who secured 49.158 marks, another Tuhina Kalai (ST) with benchmark disability-locomotor disability who scored 48.714 marks, another Durjadhan Debbarma (ST) with benchmark disability-locomotor disability who obtained 48.328 marks, another Babu Mog (ST) with benchmark disability-locomotor disability who obtained 46.273 marks and also one Happy Jamatia (ST) with benchmark disability-locomotor disability who obtained 44.557 marks are recommended as selected candidates though they scored lesser marks than Ranjit Debnath.

[26] In WP(C) No.785 of 2024, petitioner Rajesh Chakraborty (UR category) with benchmark disability of low vision also similarly applied for the

post of Multi Tasking Staff (Group-D) in pursuance of said advertisement No.02/2020 dated 03.12.2020 and he scored total 37.109 marks and from the said notification dated 07.09.2024 it is found that one Baku Mog (ST), another Prasenjit Debbarma (ST) and Sapi Debbarma (ST) despite scoring lesser marks than him in benchmark disability of blindness have been selected mentioning that three ST posts for such blindness and low vision category were left vacant and could not be filled up.

[27] Said letter of Director of Social Welfare and Social Education dated 29.11.2021 (Annexure R-6 of the lead case) shows that said Directorate of Social Welfare and Social Education furnished a roster wise reservation status for both Group C and Group D posts (indicated in paragraph No.23 above).

[28] In case of WP(C) No.695 of 2024 as stated above, the petitioner Joyjit Chowdhury (UR category) applied for Group C post in respect of advertisement dated 12.02.2021 comprising total vacancy of 2410 posts. The petitioner obtained total 86 marks and from the said selection list, it is found that he is a candidate of UR category with benchmark disability of low vision. However, from the selection list, it appears that one person namely, Paritosh Goala (UR) having benchmark disability of low vision category scored only 82 marks but he has been selected as Junior Operator (Pump) and JRBT in the said notification also mentioned that seven posts under blindness and low vision category could not be filled up.

[29] Further, it is not clear as to how the State Respondents ascertained 4% reservation for Lower Division Clerk, Agricultural Assistant (Except TAFS Grade-III), Agricultural Assistant (TAFS Grade-III), Junior Operator (Pump) and Junior Multi Tasking Operator (Un-common) together. Such categorization of horizontal reservation for persons with disabilities is required to be made separately for each group of posts in the cadre strength in each establishment in view of provision of Section 34 of RPwD Act, 2016. The essential qualifications are different for above said posts mentioned in the advertisement of 2021 and all those posts form different cadres. Therefore, all the posts cannot be amalgamated together for ascertaining 4% reservation under RPwD Act.

[30] The State Government also issued a guideline on 09.01.2019 [Annexure A of rejoinder affidavit of WP(C) No.694 of 2024] which has been heavily relied on by the respondents but in the said instruction also, against clause No. 2.1 it has been clearly mentioned that four per cent of the total vacancies will be filled up by direct recruitment in the cadre strength (*emphasis laid*) in each group of posts i.e. Groups A, B, C and D reserved horizontally for persons with benchmark disability. In clause Nos.9.1 and 9.2, it is also categorically stated that reservation for backward classes are vertical reservation and reservation for persons with disability is horizontal reservation, with further mention that horizontal reservation cut across vertical reservation which is called interlocking reservation and the persons selected against the quota for persons with benchmark disabilities have to be placed in appropriate category viz. SC/ST/Unreserved category depending upon the category to which they belong in the roster meant for reservation of SCs/STs. Even an illustration has also been incorporated in the said clause that if in a given year there are two vacancies reserved for the persons with benchmark disabilities and out of two persons with benchmark disabilities appointed, one belongs to Scheduled Caste and the other to Unreserved category, then the SC candidate with benchmark disability shall be adjusted against the SC point in the reservation roster and the Unreserved candidate with benchmark disability will be adjusted against unreserved point in the relevant reservation roster. In case none of the vacancies falls on point reserved for the SCs, the candidate under benchmark disability belonging to SC shall be adjusted in future against the next available vacancy reserved for SCs. These guidelines do not contain any instruction for compartmentalization of such horizontal reservation. The relevant clause Nos. 9.1 and 9.2 are also extracted hereunder:

“9.1. Reservation for backward classes of citizens (SCs and STs) is called vertical reservation and the reservation for categories such as persons with benchmark disabilities and ex-servicemen is called horizontal reservation. Horizontal reservation cuts across vertical reservation (in what is called interlocking reservation) and persons selected against the quota for persons with benchmark disabilities have to be placed in appropriate category viz. SC/ST/Unreserved depending upon the category to which they belong in the roster meant for reservation of SCs/STs. To illustrate, if in a given year there are two vacancies reserved for the persons with benchmark disabilities and out of two persons with benchmark disabilities appointed, one belongs to Scheduled Caste and the other to Unreserved category, then the SC candidate with benchmark disability shall be adjusted against the SC point in the reservation roster and the Unreserved candidate with benchmark disability against unreserved point in the relevant reservation

roster. In case none of the vacancies falls on point reserved for the SCs, the candidate under benchmark disability belonging to SC shall be adjusted in future against the next available vacancy reserved for SCs.

9.2. Since the person with benchmark disabilities have to be placed in the appropriate category viz. SC/ST/Unreserved in the roster meant for reservation of SCs/STs, the application form for the post should require the candidates applying under the quota reserved for persons with benchmark disabilities to indicate whether they belong to SC/ST or unreserved. Thus, reservation for persons with benchmark disabilities is horizontal.”

[31] As already discussed above, in both the advertisements, nowhere there is mention of making such compartmentalization of those posts reserved for persons with disabilities in the vertical column of reservation for SC/ST candidates but despite the same as is mentioned in paragraph No.23 above, the Social Welfare and Social Education Department has compartmentalized such posts by specifying the number of such posts in the vertical reservation violating the guidelines issued by the State Government and also violating the law laid down by the Hon'ble Supreme Court in case of **Indra Sawhney (supra)** and by this High Court in case of **Prabir Datta (supra)** as extracted earlier. As a result, the persons getting higher marks in the selection list have been deprived of getting appointment and persons scoring lesser marks have been declared as selected. For the above reasons, interference is called for in these writ petitions.

[32] In respect of WP(C) No.695 of 2024, the final selection list issued vide notification dated 13.09.2023 was already under challenge in another writ petition bearing No. **WP(C) 264 of 2024** in between **Sri Kinkar Bhowmik vs. the State of Tripura and others** and this Court vide judgment dated 12.08.2025 directed the respondents to take up again the process of filling up of rest vacant posts of LDC, Junior Operator (Pump), Junior Multitasking Operator (Uncommon) and Agricultural Assistant (TAFS Grade III) by calling the candidates who scored cut off marks i.e. qualifying marks or above in the written examination but were not called for viva voce, to fill up the rest vacant posts. However, Mr. Arijit Bhaumik, learned counsel submits that said judgment did not deal with the issue as involved in these writ petitions and in the present cases all the candidates were called for viva voce and marks were allotted to them in such interview and as such, there is no chance of any conflict between the said decision rendered in **Kinkar Bhowmik** and the

decision if any, passed in these cases regarding filling up of the posts reserved for persons with benchmark disabilities.

[33] The basic issue involved in the present case is quite different with the issues involved in the decisions as are referred by Mr. D. Sarma, learned Addl. G.A. and therefore, those decisions cannot be applied here.

[34] The respondents were required to scrupulously follow the procedure as laid down in *Indra Sawhney (supra)* and *Prabir Datta (supra)* and also clause 9 of the guidelines issued by the State Government dated 09.01.2019, but they failed. Therefore, the writ petitions are allowed with the following directions-

[A] So far, the three writ petitions bearing Nos. WP(C) 694 of 2024, WP(C) 784 of 2024 and WP(C) 785 of 2024 are concerned, the respondents shall consider the selection of the candidates having benchmark disabilities according to their own merit i.e. on the basis of the marks obtained by them in the selection process and thereafter they will be accommodated in the vertical reservation meant for UR/SC/ST candidates based on the categories to which they belong and a fresh selection list shall be published accordingly. In this process, if any person/persons is/are found not eligible to be selected who is/are earlier shown selected in the related selection list as impugned herein and is/are already appointed, liberty will be there to the State respondents to take necessary steps in this regard, for cancellation of his/their appointment after observing due procedure;

[B] Now, so far as WP(C) No.695 of 2024 is concerned, regarding the matter of candidates with benchmark disability in respect of said advertisement dated 12.02.2021, the State respondents will first collect information about the number of posts reserved for persons with benchmark disabilities in each cadre of each establishment in pursuance of what are discussed in earlier paragraphs and then shall follow the directions contained in paragraph No.34(A) above and in terms of Section 34 of RPwD Act, 2016. A post-wise fresh list of selected candidates separately

for each of the posts i.e. LDC, Agriculture Assistant (Except TAFS, Grade III), Agriculture Assistant (TAFS, Grade III), Junior Operator (Pump) and Junior Multi Tasking Operator (un-common) based on the merit of the candidates, shall be published accordingly. Needless to say, in this process also, if any person/persons is/are found not eligible to be selected who is/are earlier shown selected in the related selection list as impugned herein and is/are already appointed, liberty will be there to the State respondents to take necessary steps in this regard, for cancellation of his/their appointment after observing due procedure.

[C] The entire exercise of the total process in relation to both the advertisements as mentioned in sub-paragraph Nos. [A] and [B] above shall be completed within 04 (four) months from the date of receipt of copy of this order.

No order as to costs.

With such observations and directions, all the writ petitions are disposed of.

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

JUDGE