



**ARUNACHAL PRADESH
PUBLIC SERVICE COMMISSION
ITANAGAR.**

No. PSC/06/2023

Dated, the 12th June, 2024

To,

Ms. Mudang Yabyang,
Itanagar
Arunachal Pradesh

Subject: - Decision of the Commission in regards to the case of Ms. Mudang Yabyang.
Ref: - Your letter no. NIL Dated 07/06/24.

Madam,

In respect of the subject cited above, the representations/letters/orders received on the matter from various organisations/associations along with the following documents were thoroughly examined by the Commission:

- i. Letter received from the Commissioner, SJETA, GoAP vide letter no. SJETA-18014/2/2022/351 dtd. 10th May, 2022.
- ii. Letter received from Secretary, SJETA, GoAP vide letter no. SJETA-01/2022/D(Misc)/926 dated 11th Oct'2022.
- iii. Letter received from Pan Arunachal Divyangjan Joint Steering Committee vide letter no. ADSJ-01/2023 dated 14.02.2023.
- iv. Letter received from Joint Secretary, SJETA, GoAP vide letter no. SJETA-18012(14)/1/2022 dated 09.06.2023.
- v. Representations received from PANJSC (APPSC) vide letter no. nil dated 23/01/2024.
- vi. Representation received from Ms. Mudang Yabyang vide letter no. nil dated 04.03.2024.
- vii. Order vide case no. SJETA/2024/1/1086 dated 18/3/2024 passed by the State Commissioner for Persons with Disabilities.
- viii. Letter received from Paralympic Association of Arunachal vide letter no PAA/MEM/04 2024 dated 10th May, 2024.

The Commission constituted an Internal Committee to examine the case of Ms. Mudang Yabyang in reference to the letter No.AR-23011/2/2023-SECTT-1-AR/93 dated 22nd February, 2023 of Dept. of Administrative Reforms, Govt. of Arunachal Pradesh. The report submitted by the Internal Committee was duly considered and accepted by the Commission. In addition, legal opinion on the subject matter was also taken. In view of the above, I am directed to convey the following decision of the Commission:-

- (a) No evidence came on record to show that there has been serious misapplication/non-application of provision contained in rule 18(i) of the Arunachal Pradesh Rights of Persons with Disabilities Rules, 2018. As per rule 18(i) of Arunachal Pradesh Rights of Persons with Disabilities Rules, 2018

concession for PwD candidates is 5% of qualifying or pass marks. As per Para 44 (v) of APPSC, Conduct of Examination Guidelines, 2017 *'in case of direct recruitment by interview a minimum of 50% of the total marks for the interview have to be obtained for consideration for selection'*. The total marks in the present case is 100, hence, 50 % of 100 is 50 marks, the qualifying marks which a candidate has to secure for consideration. However, Ms Mudang Yabyang secured 46.5 marks. After applying the concession of 5% of qualifying or pass mark in interview (i.e 50 marks) as provided in rule 18(i) of the Arunachal Pradesh Rights of Persons with Disabilities Rules, 2018, the relaxation is of 2.5 marks (i.e. 5% of 50). As such, after concession of 2.5 marks, a score of 47.5 marks is required to come within the zone of consideration, whereas, she secured 46.5 marks. Therefore, even after applying the relaxation under rule 18(i) of the Arunachal Pradesh Rights of Persons with Disabilities Rules, 2018, she does not qualify for recommendation for the said post.

- (b) Various representations have made reference to the Govt. OM No. 36035/02/2017-Estt (Res), Dated 15.01.2018, Para 11.1 which states that *'if sufficient number of candidates with benchmark disabilities candidates are not available on the basis of the **general standard** to fill all the vacancies reserved for them candidates belonging to this category **may** be selected on relaxed standard to fill up the remaining vacancies reserved for them provided they are **not found unfit for such post or posts'***. This OM has been forwarded by the Department of Administrative Reforms, GoAP vide OM No AR-31/2019/204, Dated 31.05.2019, clearly stating in para 2 that the Department of SJETA under the **Government of Arunachal Pradesh has already notified the Arunachal Pradesh Rights of Persons with Disabilities Rules, 2018** vide Gazette No. DSJE (Dis)- 14/2012 (part A) dated December 14, 2018 **consistent with the Office Memorandum of Government of India**. The APRPwD Rules, 2018 already provide for concession of 5% as per rule 18(i). The OM stated above is only an Executive Order/Instruction and therefore cannot be exercised in such a way so as to further relax the 5% concession already provided in Rule 18(i) of the Arunachal Pradesh Rights of Persons with Disabilities Rules, 2018.

The Para 11.1 of the Govt. OM No. 36035/02/2017-Estt (Res), Dated 15.01.2018 as mentioned above is clearly being used in the context of relaxation of degree of physical disability for a post in case no sufficient number of candidates in that category are available. This Para 11.1 **has nothing to do with relaxation of merit or marks** obtained in written or in viva-voce/interview by PwD candidates. For example in a given recruitment if the requisite degree of physical disability was 50% and if sufficient number of candidates having 50% degree of physical disability are not available then the same may be relaxed. Therefore, the Para 11.1 of the OM is not applicable for relaxation of merit as submitted in various applications by the applicant.



Page 2 of 4

Further, in the above OM Para 11.1, the word '**may**' and not '**shall**' has been used which is in itself is not mandatory and conferred necessarily discretion to apply or not apply the clause on the Commission at that point of time, had it been applicable. Accordingly, the Commission had taken decision and notified the result for the post of Lecturer, Electrical Engineering, Govt. Polytechnic College dated 22nd April 2022 which very clearly states that '*Due to non-availability of suitable APST PwD candidate, 1 (one) post reserved for APST PwD in Electrical Engineering has been kept vacant and to be carried forward for next recruitment year*'.

- (c) The entire selection process has been completed for this particular vacancy which was returned to the department. The APPSC has received fresh requisition for recruitment of one vacant post of Lecturer in Electrical Engineering (reserved for PwD candidate) vide Letter No. ED/HE (T)-353/2009 dated 28.09.2022 which is under process and shall be notified shortly.
- (d) The concerned examination was conducted under the APPSC Conduct of Examination Guidelines, 2017 in which there is no provision for "retrospective effect". Therefore, there is no specific and express provision to review the decision of the previous Commission taken with regard to examination with retrospective effect.
- (e) The Arunachal Pradesh Public Service Commission being an autonomous Constitutional body, the recommendations vide Order Case No. SJETA/2024/1/1086 dated 18/3/2024 passed by the State Commissioner for Persons with Disabilities is not binding upon the Commission.

In view of the above, no case has been found to interfere in the decision of the previous Commission, that too retrospectively. Therefore, the Commission has decided that the representations made in the case of Ms. Mudang Yabyang cannot be considered for recommendation.

This is issued with the approval of the Commission.

(Parul Gaur Mittal), IRS
Secretary, APPSC

Copy for information to:-

1. The Under Secretary to the Hon'ble Governor of Arunachal Pradesh. This has reference to your letter No. GS/APPSC-02/2023(Vol-I)/883 dated 3rd June, 2024.
2. The Commissioner to Hon'ble Chief Minister, GoAP.
3. The Under Secretary to the Chief Secretary, GoAP.
4. The Commissioner, Administrative Reforms, GoAP.
5. The Secretary, SJETA, GoAP.
6. The President, Paralympic Association of Arunachal.
7. The President, Arunachal Divyangjan Reformation Committee.
8. The Chairman, Pan Arunachal Divyangjan Joint Steering Committee.
9. File


12/6/24
(Parul Gaur Mittal), IRS
Secretary, APPSC