CHAPTER - V

AMELIORATIVE EXECUTIVE MEASURES:
THEIR PRESCRIPTION AND PRACTICE

The expectations of the disabled had raised high with the United Nations Declaration of 1981 as the year of the disabled. One such expectation, very natural and genuine one, was to have a comprehensive legislation touching all the possible aspects of the problem and providing rehabilitation to the maximum. In the absence of such legislation, the executive had sought to play the role of a surrogate and had been making its own contribution to alleviate the sufferings of the disabled. The disabled in India are happier after the passing of much waited and a rather comprehensive legislation\(^1\) for bringing about their upliftment. But the enactment of a comprehensive legislation becomes meaningless unless followed up by timely, appropriate and sufficient executive measures to implement the aims and objectives of the legislation.

In the following text, we shall examine the various executive measures introduced by the government ever Since India attained independence to make the life of the disabled lot comfortable, useful, productive and creative by way of providing those concessions, relaxations, priorities, reservations in matters of education, employment, training, housing, travel, communication, finance, awards etc.

5.1. Education of the Disabled Persons

If we are to understand rehabilitation in the light of its objectives rather than applied services, rehabilitation implies making a person aware of his potential and then providing him with the means of attaining that potential.\(^2\) The rehabilitation of the disabled can only be successfully accomplished by the combination of medical, educational, social and vocational services.\(^3\) After medical rehabilitation,\(^4\) education of

\(^{1}\) The Persons with Disabilities (Equal opportunities, Protection of Rights and Full Participation) Act 1995, Act No.1 of 1996.


the disabled gets the top priority as it is vital to the process of rehabilitation. It is instrumental in preparing the handicapped for adult roles as well as in assisting them to surmount the varied disabilities, particularly of socio-psychological origin.\(^5\)

Initially, the responsibility of meeting the special educational needs of the disabled was entrusted to the Ministry of Education and then in June, 1954, to the Department of Social Security, now known as the Department of Social Welfare. Since then, the department has been making efforts to strengthen educational aspect of the lives of the handicapped people. Accordingly, in the first part of the present chapter effort has been made to study and analyze various schemes in this regard.

5.1.1. Children's Educational Allowance

A Government servant is eligible to draw children's educational\(^6\) allowance when he is compelled to send his child to a school away from the station at which he is posted and/or residing owing to the absence of a school of the requisite standard at that station.\(^7\) Such allowance shall be available up to three children born up to 31.12.1987 and shall be restricted to two children born thereafter.\(^8\) He shall be eligible to the reimbursement of tuition fee payable and actually paid in respect of his child provided that no children educational allowance is admissible to him.\(^9\) Since 1.10.1988, the reimbursement of tuition fee in respect of physically handicapped and mentally retarded children of the Central government employees has been enhanced to Rs. 50 p.m. (Class I to XII) In comparison to general category where it restricts only to Rs.20 p.m. the disabled children will however, get other assistance under this scheme as per rates prescribed for the normal children.\(^10\)

\(^4\) Id.
\(^6\) Government of India (1988): Ministry of Personnel Public Grievances and Pensions Department of Personnel and Training, Children's Educational Allowance No.21011/21/88-Estt. Allowances, dated 17.10.1988. This circular provides that the grant of children's educational allowance, reimbursement of tuition fee etc. to Central Government employees will be governed by Central Civil Services (Educational Assistance) orders.
\(^7\) Central Civil Services (1988): Educational Assistance, Orders, Rule 11.
\(^8\) Ibid., Rule 8
\(^9\) Ibid., Rule 18
\(^10\) Ibid., Rule 19
Notwithstanding anything to the contrary in the mentioned above\textsuperscript{11}, tuition fee payable and paid in respect of a physically handicapped or a mentally retarded child of a Government servant shall be reimbursed subject to the following conditions.\textsuperscript{12}

(a) The institution in which the child is studying is one which is recognised or approved or aided by the Central Government or State government or Union Territory Administration.

(b) The fees charged are approved by the Central Government, a State Government or Union Territory Administration, as the case may be.

If the institution is recognized or approved or aided but the fees charged are not approved by Central or State Government or Union Territory Administration, the fees reimbursement shall be subject to ceiling of Rs. 50 per month.\textsuperscript{13}

\textbf{5.2. Scheme of Integrated Education for the Disabled Children}

One of the important requisites for the complete growth of the handicapped individual is the integration of the handicapped with the community at large. Integration of handicapped children in ordinary schools with normal children has several social and psychological advantages for the handicapped as well as non-handicapped children. Close interaction in the impressionable years promotes understanding and appreciation of the assets and limitations of both handicapped and non-handicapped children. Another distinct advantage is that the disabled child remains with his family and is saved from the pernicious consequences arising from separation from his family in the crucial years of his childhood.\textsuperscript{14} Perhaps this is one of the effective ways of providing education and educational facilities for the handicapped children in large numbers.

\begin{itemize}
\item \textsuperscript{11} Central Civil Services (1988): Educational Assistance Orders.
\item \textsuperscript{12} Ibid., Rule 21
\item \textsuperscript{13} Id.
\item \textsuperscript{14} D.S. Mehta (1983): \textit{Handbook of Disabled in India}, Allied Publishers Pvt.Ltd., Delhi, at p. 162.
\end{itemize}
The Scheme of integrated Education for the Disabled Children is a centrally sponsored scheme and was launched in 1974 by the then Department of Social Welfare. The scheme has however been transferred to the Department of Education since 1982. Under the scheme, handicapped children are sought to be integrated in the normal school system. Hundred percent assistance is provided to the States/U. Ts for education of the children suffering from certain mild handicaps in common schools with the help of necessary aids, incentives and specially trained teachers. The following types of disabled children are covered under this scheme:

(a) Children with loco motor handicaps (Orthopedically handicapped)
(b) Mildly and moderately hearing impaired
(c) Partially sighted children;
(d) Mentally handicapped educable group.
(e) Children with multiple handicaps (blind and orthopedic, hearing impaired and orthopedic, educable mentally retarded and orthopedic, visually impaired and mild hearing handicap);
(f) Children with learning disabilities.

5.2.1. Provisions under the Scheme:

The handicapped children are provided the allowances and facilities under the scheme:

(a) Books and stationery allowance of Rs. 400/- per annum.
(b) Uniform allowance of Rs. 50/- per annum.
(c) Transport allowance of Rs. 50/- per month.

(If a disabled child admitted under the scheme resides in a hostel of the school within the school premises, no transportation charges would be admissible.)
(d) Reader allowance of Rs. 50/- per month in case of a blind child after class V.

(e) Escort allowance for severely handicapped children with lower extremity disabilities @ Rs. 75/- per month.

(f) One special trained teacher for 8 to 10 disabled children.

(g) Special pay of 15 percent to teachers in urban areas and 20 percent in rural areas.

(h) Actual cost of equipment subject to a maximum of Rs. 2000/- per student.

(i) In the case of severely orthopedically handicapped children, it may be necessary to allow one attendant for 10 children in a school. The attendant may be given the standard scale of pay prescribed for group, ‘D’ employees in the States/U.T. concerned.

(j) Disabled children residing in school hostels within the same institution where they are studying may also be paid boarding and lodging charges as admissible under the State Government rules/schemes. Where there is no State scheme of scholarship to hostellers, the disabled children, whose parents income does not exceed Rs. 3000 per month, may be paid actual boarding and lodging subject to a maximum of Rs. 200 per month.

(k) Severely orthopedically handicapped children residing in school hostels may need the help of a helper or an ayah. A special pay of Rs. 50/- per month is admissible to any employee of the hostel willing to extend such help to children in addition to his/her duties.

(l) In a school in rural areas where at least 10 handicapped children are enrolled, capital cost for the purchase of school rickshaw for free use of these children and expenses for Rickshaw Puller @ Rs. 300 per month will be provided under the scheme. In such cases, no transport allowance will be payable to the student.

Thus, we find that the Scheme made available some allowances and facilities for meeting the special needs of the disabled students. However, various allowances under the scheme appear to be too meager and are not related to the price index. Ever since the scheme was launched in India has witnessed spiraling inflation time
and again. Therefore, there is a crying need for a revision of the amount of allowances in the face of rising prices.

5.2.2. Scholarships for the Disabled Students

The chief aim of the scheme of the scholarship\textsuperscript{16} for the disabled persons is to assist them to secure education, academic, technical or professional training or even training on the shop/floor of the industrial establishment as would enable them to earn a living and thus become useful members of the society.

(a) The scheme will be applicable to all categories of the disabled persons\textsuperscript{17} viz., the visually handicapped\textsuperscript{18} the hearing handicapped\textsuperscript{19} orthopedically handicapped\textsuperscript{20} and mentally retarded.\textsuperscript{21}

(b) A person suffering from a disability not covered under any of the above categories which is certified by a registered medical practitioner to have the effect of permanently reducing considerably such person/s capacity for normal work or engaging in a gainful employment shall also be considered for the award of scholarships under the scheme.\textsuperscript{22}

(c) Union Ministry of Social Welfare has been granting scholarships since 1955, for general education and professional or technical or vocational training


\textsuperscript{18} The \textit{visually handicapped} are those who suffer from, either of the following conditions:
(a) Total absence of sight.
(b) Visuality not exceeding 6/60 or 20/200 Snellen in the better eye with correcting lenses.
(c) Limitation of the field of the vision sub standing and angle of 20 degree worse.

\textsuperscript{19} The \textit{hearing handicapped} is those in whom the sense of hearing is non-functional for ordinary purposes of life. They don't hear/understand sound at all even with amplified speech. The case included in this category will be those having hearing loss more than 70 decibels in the better ear \textit{profound impairment} or a total loss or hearing in both ears.

\textsuperscript{20} The \textit{orthopedically handicapped} are those who have a physical defect or deformity which causes interference with the normal functioning of the bones, muscles and joints.

\textsuperscript{21} A person shall be deemed to be \textit{mentally handicapped} if his mental retardation refers to sub-average general intellectual functioning which originates during the development period and is associated with impairment in adaptive behavior.

Starting from a modest 22 scholarships in 1955, the number rose to 2744 in 1976-77, 4,412 in 1977-78, 7095 in 1978-79 and 8900 in 1979-80. Since then the scholarship scheme has been decentralized and to be launched and operated by the State Government/U. T. Administration concerned. However funds to the States/U.T. are provided by the Central Government and overall rules to regulate the scholarship are also framed by the central government. Union Social Welfare Ministry, accordingly framed rule to regulate scholarships for the disabled persons in 1987. Some of such rules are reproduced and analyzed as below:

5.2.2.1 Eligibility Requirements

(a) **Educational Requirements**: A disabled candidate will be eligible for the award of scholarship for study from IX class onwards. The candidate should have secured at least 40% marks at the previous annual examination.

(b) **Music Course**: A disabled candidate should have passed Madhya or its equivalent examination at least in second division from a college affiliated to a University or to an institution of all India character approved by the Central Government.

(c) **Vocational Course**: A disabled person should be undertaking a vocational training course in any vocational training central/workshop/I.T.I. or any other centre run by the Central/State Government/Local body or any voluntary organization or institution recognized by Central/State Government. This will also include apprenticeship or training in a recognized institution or in industries. Lack of academic qualification need not be a bar to vocational training.

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24 Id.

(d) **Income:** No scholarship will be admissible if the combined monthly income of the parents/guardian of the disabled candidate is more than Rs. 2000 (Rupees two thousand) per month.

### 5.2.3. Other Requirements

(a) **Course:** A disabled person must be studying\(^{26}\) a full-time course or correspondence course in an educational institution affiliated to a board/university, music course in an institution affiliated to a University or an organization approved by the State or Central government or working as trainee in a recognized institution or commercial industrial establishment approved by the Central or State Government in this regard.

(b) A disabled student who under any scheme of the Central/ State Government has received craft training free of cost, or undergone a course of general education free of cost will be eligible for consideration for scholarship for higher technical training or higher education. The students, who want to go in for academic courses after doing craft training and vice-versa shall not however, be considered for scholarship.

(c) A disabled person in receipt of assistance for free boarding and lodging facilities from any voluntary or state source will be eligible for the scholarship as applicable to the day scholar, provided he or she paid tuition fees.

(d) Scholarship will not be awarded:

(i) for pursuing a parallel course of study e.g. scholarship will not be awarded to an M.A. in Economics to pursue study in M.A. in Political Science;

(ii) for studying outside India;

(iii) For pursuing academic/technical course if candidate has already completed a vocational course/training.

\(^{26}\)Ibid., at p. 43
(iv) For undertaking any training course for the second time.

(e) A candidate who has received any vocational training in any institution including any Central or State Government organizations shall be considered for the award of scholarship to work as trainee in any establishment approved by the Central or State Government.

(f) Other Allowance\footnote{Ibid., sub-clause (b) (i) Clause 5}

In the Case of severely disabled persons who require special arrangements for transport, an additional monthly allowance of Rs. 50 p.m. or actual expenditure, whichever is less, may be sanctioned. This allowance is subject to recommendation of the head of the institution/establishment and on the basis of medical certificate.

**Rates of Scholarship\footnote{Annexure attached to sub-clause (1) clause (5) of Rules to Regulate Government of India Scholarships for the Disabled Persons at p. 9.}**

<table>
<thead>
<tr>
<th>Type of Course</th>
<th>Rate p.m. for day scholars</th>
<th>Rate p.m. for hostellers</th>
<th>Readers allowance for visually handicapped only</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Class IX, X Pre University course and I.A./I.Sc</td>
<td>85</td>
<td>140</td>
<td>50</td>
</tr>
<tr>
<td>2. B.A./B.Sc./ B.Com.etc.</td>
<td>125</td>
<td>180</td>
<td>75</td>
</tr>
<tr>
<td>3. B. E. / B. Tech M.B.B.S./ LL.B/ B.Ed./Diploma in professional and Engineering studies etc./In-plant training</td>
<td>170</td>
<td>240</td>
<td>100</td>
</tr>
<tr>
<td>4. M.A./M.Sc./ M.Com./ LL.M./M.Ed. etc/</td>
<td>170</td>
<td>240</td>
<td>100</td>
</tr>
</tbody>
</table>

**5.2.4. Educational Concessions and Relaxations**

The Association of Indian Universities recommended the following measures to all Indian Universities.\footnote{Physically handicapped students who can produce reasonable}
evidence of having difficulty in attending normal institutions should be permitted to appear as private candidates for non-technical examination, not involving practical training. Physically handicapped examinees should be provided free of cost, the assistance of competent persons who write to dictation and they need not be less qualified than the examinees. Physically handicapped may be permitted to typewrite their answers, if they so desire.

Blind students should be permitted to take up Arts subjects in place of mathematics or science at the matriculation or an equivalent examination.

The Industrial Training Institute allows admission to the physically handicapped wherever such candidates are declared physically fit for training in a trade for which they have been recommended either by Medical Board attached to the special employment exchange for the physically handicapped or by the local civil surgeon (where such Medical Boards have not been constituted.)

5.2.5. Employment of the Disabled Persons

The most effective method of controlling and reducing the incidence of disability and rehabilitation of the disabled would be to convert the disabled from welfare recipients to productive, wage-earning, tax-paying respected citizens. It would be in the interest of both, the disabled community and the community at large. By making him economically independent, a disabled can be returned to the position of dignity and self-support. Economic gain thus coincides with social gain.

With this goal in view, the Government of India considered this issue and requested the appointing authorities and the medical authorities that the cases of handicapped persons seeking employment in public sector be viewed with utmost sympathy. In order to procure suitable employment for these persons, a Special Employment Office for the physically handicapped was opened at Bombay. A Medical Board was attached to it. It was also decided that on nomination of these persons by the


Special Employment Offices for appointment in post under the government, they should not be subjected to usual medical examination on first entry into Government Service and the question of their employment should be based on the report of the medical board attached to the Special Employment Offices. However, it was in 1977 that the Government of India, through various executive instructions earmarked some percentage of the employment opportunities as the share due to the persons who are physically handicapped. They are also being provided with certain relaxations and concessions in the initial recruitment as well as service conditions.

The number of persons physically handicapped in various ways is numerous. However, for the purpose of employment, the reservations I relaxations, and concessions are confined to the Blind, the Deaf and the orthopedically handicapped persons only. Reservations in Group 'e' and 'D' Posts as per the order of the Government of India.

Posts reservation of 3% has been made in Group 'C' and 'D' posts for the physically handicapped persons. The categories of handicapped persons benefitted are the blind, the deaf and the orthopedically handicapped persons as given below:

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33 Government of India (1977): “Department of Personnel and Administrative Reforms”, Ministry of Home Affairs, O.M. No. 39016/6/77 (SCT), dated 4th November is the executive instruction making reservation for the physically handicapped. Annexure attached to the office Memorandum defines the blind as those who suffer from either of the following conditions:
   (a) Total absence of sight
   (b) Visual acuity not exceeding 6/60 or 20/200 (snellen) in the better eye with correcting lenses;
   Limitation of the field of vision standing an angle of 20 degrees or worse.
34 Ibid: The Annexure defines deaf as those in whom the sense of hearing is non-functional for ordinary purpose of life. They do not hear; understand sounds at all even with amplified speech. The cases included in this category will be those having hearing loss more than 90 decibels in the better ear (profound impairment) or total loss of hearing in both ears.
35 The definition of “Orthopedically Handicapped” for employment purposes have been revised vide Government of India, Department of Personnel and Training I.M. No. 3603S/S/88-Estt. (SCT), dated 4th May, 1990. It says that orthopaedically handicapped that have a minimum of 40% of physical defect or deformity which causes an interference with the normal functioning of the bones, muscles and joints are eligible for reservations/relaxations/concessions in the employment and service conditions.
36 Executive instruction by Ministry of Home Affairs, Supra note 33
37 The present classification of Group A, B,C and D posts refer to the erstwhile class 1,11,111,& IV posts respectively.
<table>
<thead>
<tr>
<th>Category of handicapped</th>
<th>%age of reservation.</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. The Blind</td>
<td>1%</td>
</tr>
<tr>
<td>2. The Deaf</td>
<td>1%</td>
</tr>
<tr>
<td>3. The Orthopedically handicapped</td>
<td>1%</td>
</tr>
</tbody>
</table>

The reservation of jobs for the disabled is in tune with the provisions in the Indian Constitution. Reservation for the handicapped can be constitutionally supported by reference to Article 16 (4) on the basis of rational classification or permissible discrimination under Article 15(4). Article 41 of the Constitution under the

Chapter on Directive Principles of the State Policy provides sufficient constitutional justification for making reservation for the handicapped.

5.2.6. Identification of Jobs

In order to implement these reservations, without loss of productivity, some posts are identified disability-wise. To ensure sufficient recruitment of blind persons, a separate list has been identified for the blind and partially blind persons.

Consolidated List identifying jobs orthopedically handicapped and deaf is being reproduced below:

<table>
<thead>
<tr>
<th>Category of handicapped</th>
<th>Occupation</th>
</tr>
</thead>
<tbody>
<tr>
<td>ORTHOPAEDICALLY HANDICAPPED</td>
<td></td>
</tr>
</tbody>
</table>

38 Article 16 (4) reads as below:
"Nothing in this article shall prevent the State from making any provision for the reservation of appointments of posts in favor of any backward class of citizens which, in the opinion of the State, is not adequately represented in the services under the State."

39 Article 15 (4) reads as under:
"Nothing in this article or in clause (2) of Article 29 shall prevent the state from making special provision for the advancement of any socially and educationally backward classes of citizens."

40 Article 41 is reproduced below:
"The State shall, within the limits of the economic capacity and development, make effective provision for securing the right to work, to education and to public assistance in cases of unemployment, old age, sickness and disablement and in other cases of undeserved want."

<table>
<thead>
<tr>
<th>Category of handicapped</th>
<th>Occupation</th>
</tr>
</thead>
<tbody>
<tr>
<td>(a) Upper Extremities</td>
<td></td>
</tr>
<tr>
<td>(i) Major Defects</td>
<td>Accounts Clerks (U), Office Clerks, Superintendents (U), Proof Readers (U), Receptionist, Stamp Vendors (Postal), Waterman.</td>
</tr>
<tr>
<td>(ii) Minor Defects</td>
<td>Caretakers (A), Chowkidars (A), Copy Holders Dak Messengers, Daftries (A), Documentatior. Assistants (A), Editorial Assistants (A), Gardeners, Farash, Gestetner Operator, Junior Engineers (Civil), Key-Punch Operators (A), Laboratory Attendants, Assistants (Chemical), Laboratory Attendants (Clinical), Library Clerks (A), Liftmen(A), Motor Readers, Office Clerks (A), Office Supdt., Peons, Photographic Retouches, Proof Readers, Receptionists, Research Investigators, Retiring Room Attendants, Salesmen (Shop) (A), Scientific Assistants, Security Guards (A), Store- Keepers (A), Statistical Assistants, Sub-postmasters (A), Sweepers, Teachers (Primary) ,Telegraph Messengers, Technical Assistants, Telephone Operators (A), Time Keepers (A), Translators (A), Typists(A), Waiting .Room Attendants, Watermen, Ward Boys/Ayahs (A), Wireless Operators (A)</td>
</tr>
<tr>
<td>Lower Extreme</td>
<td></td>
</tr>
<tr>
<td>Major Defects</td>
<td>Accounts Clerks, computers, Copy Holders, Editorial Assistants, Hand Compositors (A) , Jr. Engineers (Civil) (Only designing jobs), Key-punch Operators, Liftmen, Office Clerks, Office Supdt., Painters, Projectionists (A-MNR) , Proof-Readers, Radio Technicians, Receptionists, Stenos, Stamp Vendors (Postal), Sub-postmasters, Telephone Operators, Telex Operators, Translators, Typists.</td>
</tr>
<tr>
<td>Minor Defects</td>
<td>Architectural Assistants (A-MNR), Book Binders,</td>
</tr>
<tr>
<td>Category of handicapped</td>
<td>Occupation</td>
</tr>
<tr>
<td>------------------------</td>
<td>------------</td>
</tr>
<tr>
<td></td>
<td>Caretakers (A-MNR), Carpenters (A), Cashiers (A), Compounders, Chowkidars (A-MNR), Commercial Artists, Daftries (MNR), Documentation Assistants (A-MNR), Dressers, Retiring Room Attendants, Sweepers, Watermen(T), waiting Room Attendants, Lottery Ticket Sellers, Draftsmen, Ferro Printers, Instrumentalists Staff Farashes Gestetner Operator, Artists (MNR), Laboratory Assistants (Chemicals), Laboratory Assistants (Clinical), Librarians (Jr.), (A-MNR), Library Clerks, (A-MNR), Musicians (Staff Artists), (MNR)/1 Packers, Peons (MNR), Photographers (MNR), Photographic Retouches, Retiring Room Attendants (MNR), Salesmen (Shop) (MNR), Statistical Assistant (MNR), Sweepers (MNR), Teachers (Deaf), Teachers (Primary), Technical Assistants (MNR), Time Keepers (A), Tracers, Vehicle Cleaners (MNR), Waiting Room Attendants (MNR), Watermen Wireless Operators.</td>
</tr>
<tr>
<td>DEAF</td>
<td>Postmen, Telegraph Messengers</td>
</tr>
<tr>
<td>PARTLY DEAF</td>
<td>Architectural Assistants (A), Caretakers (A), Cashiers, Compounders, Chowkidars (A), Dak Messengers, Draftsmen (A), Dressers, Editorial Assistants, Electricians, Jr. Engineers (Civil) (A), Lab. Assistant (Chemical), Laboratory Assistants (Clinical), Laboratory Attendants,</td>
</tr>
<tr>
<td>Category of handicapped</td>
<td>Occupation</td>
</tr>
<tr>
<td>-------------------------</td>
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</tr>
<tr>
<td></td>
<td>Librarians (Jr.), (A) Library -Clerks (A), Peons, Postmen, Projectionists (A) ,Research Investigators, Retiring Room Attendants, Scientific Assistants, Salesmen (Shop) (A), Stenographers (A), Security Guards, (A), Stamp Vendors (Postal) (A), Sub-Postmasters (A), Technical Assistants, Teachers (Deaf), (A), Teachers (Primary) (A), Time Keepers (A), Waiting Room Attendants, Ward Boys/Ayahs.</td>
</tr>
</tbody>
</table>

Explanations: U=Unilateral, A=With Aids, T=with Training, H=with a helper, MNR= Mobility not restricted

Consolidated list\(^{42}\) identifying jobs for blind persons is being reproduced below:

1. BLIND
   Announcers at Railway Stations, Bus Stops and Airports(T), Cane weavers (T), Instrumentalists (Staff Artists(T)) Measurers(T), Musicians (T), Office Superintendents (H) Music Teachers (T), Packers (T), Stenographers (with Dictaphone and Digital Typewriters), Teachers (primary T& AE) , Telephone Operators, Electronic (Small Deep and with Embossed Digits), Lathe Operators, Press Operators, Stumpers, Packers, Drillers, Weavers, Fitters, Chippers, Sciences.

2. PARTIALLY BLIND
   Dak Messengers, Dispatch Clerk (T), Gardeners (T), Gestetner Operators, (T&A) , Liftmen (T & Digital Controls), Peons,


-140-
Receptionists (T&A), Retiring Room Attendants, Sweepers, Watermen(T), Waiting Room Attendants, Lottery Ticket Sellers.

Explanations: T = with training H= with a Helper A= with Aids

5.2.7. Carry Forward of Vacant Posts under Reserve Category

In the meeting of Central Advisory Committee on employment of the handicapped held on 20.3.1984, a point was raised that jobs earmarked for one category of handicapped persons should not be transferred to another category of handicapped persons but should be carried forward for a period of three subsequent recruitment years. This point was discussed amongst representatives from all minorities and resolved that even if inter-se exchange of vacancies between the blind, the deaf and the orthopedically handicapped candidates is allowed, the vacancy reserved for one specified category of handicapped persons will continue to be reserved for them through carry forward of the vacancy to three recruitment years.

(a) Posting of Handicapped Candidates

As per the decision of Government of India Group 'C' and Group 'D' posts recruited on regional basis and who are physically handicapped may be given posting as far as possible near to their native place within the region subject to administrative constraints. It has been decided that the physically handicapped employees may be given preference in transfer case near to their native place. Regarding physically handicapped employees belonging to Group 'A' and Group ‘A’ it has further been decided that it may not be possible to Post them near their native places as they have All-India transfer liability. However, their requests for transfer to or near their native

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44 Ibid.
places may be given preference subject to availability of vacancy and other administrative considerations.\footnote{Ibid., at p. 58}

\textbf{(b) Grant of Age Concession to Physically Handicapped}

As per the Government order\footnote{Government of India (1978): \textit{\textbf{Department of Personnel and Administrative Reforms}}, Ministry of Home Affairs, O.M. No. 15012/6/77, 18\textsuperscript{th} July.}, it has been decided to extend the age concession of 10 years in favor of handicapped persons to recruitment to posts filled through the Staff Service Commission and through Employment Exchanges in Group 'C' and Group 'D' posts.

\textbf{(c) Exemptions from Payment of Examinations Fee}

The physically handicapped persons are exempted\footnote{Government of India (1985): \textit{\textbf{Ministry of Personnel & Training, Administrative Reforms and Public Grievances & Pension}}, Department of Personnel & Training, O.M. No. 39022/185, 3\textsuperscript{rd} December.} from the payment of application and examination fee prescribed in respect of competitive examinations held by the Staff Service Commission and Union Public Service Commission for recruitment to various Group 'c' and Group 'D' (Non-gazette) posts and also posts pertaining to the above categories which are filled through recruitment by selection. This exemption is, however, available to only those handicapped persons who are otherwise eligible for appointment to the post on the basis of the standards of medical fitness prescribed for that post (including any concession specifically extended to the physically handicapped) and who enclose with the application form, a necessary certificate from a Government hospital/ medical board in support of their claim for being handicapped.\footnote{Ibid., at p. 43}

\textbf{(d) Relaxations in Typing Qualifications}

The physically handicapped Apprentices are exempted from appearing in the typewriting test in All-India Trade Test for Apprentices conducted by the National Council for Training in vocational Trades under Apprentices Act, 1961.\footnote{Government of India (1980): \textit{\textbf{Ministry of Labor}}, O.M. No. DGET-44 (S) SO-AP, 22th December.}
30 words per minute in typing has been prescribed as an essential qualification for recruitment made through the employment exchanges to posts of Lower Division Clerk. Representations were made that the above condition operates very harshly in the case of physically handicapped persons who are otherwise eligible for appointment to post of Lower Division Clerk but cannot be so appointed for the reason they are not able to satisfy the typing qualification due to the disability they are suffering from.

After careful consideration of the matter, the Government of India, granted exemption from typing test to the physically handicapped persons who are otherwise qualified to hold clerical posts and who are certified as being unable to type by the Medical Board attached to Special Employment Exchange for the Handicapped (or by a Civil Surgeon, where there is no such Board). Recently the Government of India has issued consolidated instructions reminding all the appointing authorities to implement this exemption.

(e)  Return Journey Fare for Attending Interviews

The physically handicapped persons summoned by the vocational Rehabilitation Centers (VRC) to appear for interviews for various jobs/services, are paid return journey fare, subject to the following terms and conditions:

1. Thy physically handicapped person summoned for the interview shall be residing in a place whose distance is more than 8 km from the VRC;
2. No advance or daily allowance or incidental charges will be paid to the clients;
3. Persons accompanying the physically handicapped persons shall not be entitled to the benefit;

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Mode of transport should be public conveyance including second class railway coaches. Where such transport is not available, an actual fare for available surface conveyance.

5.3. **Conveyance Allowance to Physically Handicapped Employees**

The Central Government employees who are blind, orthopedically handicapped or suffering from spinal deformity (generally known as hunchback disability) are granted conveyance allowance at @ 5% of basic pay subject to a maximum of Rs. 100 p.m subject to the following conditions:

(i) An orthopedically handicapped employee will be eligible for conveyance allowance only if he/she has a minimum of 40% permanent/partial disability of either upper or lower limbs or 50% permanent / partial disability of both upper and lower limbs together.

(ii) Conveyance allowance will be admissible to orthopedically handicapped employees, on the recommendation of the head of Orthopedics Department of a Government civil hospital.

(iii) In the case of a blind employee the allowance/will is admissible on the recommendation of the head of Ophthalmological Department of a government civil hospital.

(iv) In the case of a person with spinal deformity, the conveyance allowance will be admissible on the recommendation of appropriate medical authority. The disability under this category should be above 40% estimated as per the standards laid down in the booklet on Uniform Definition of the Physically Handicapped issued by the Ministry of Welfare.

(v) The conveyance allowance will not be admissible during leave (except casual leave), joining time or suspension.

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56 Ibid., at p. 123
58 Earlier this rate was 10% of the basic pay subject to maximum of Rs. 50. See, Government of India, *Ministry of Finance*, Department of Expenditure O. M. No. 19029/1/78 dated 31.8.1978.
(vi) Instruction to Appointing Authorities for Intimating Vacancies Reserved for the Handicapped as per instructions of Government of India, all the vacancies in Group 'c' and Group 'D' posts, irrespective of their nature and duration are not only to be notified to the Employment Exchange/Special Employment Exchange/ vocational Rehabilitation Centers, but are also to be filled through the agency unless filled through Union Public Service Commission! Staff Service Commission etc.

(a) Consideration for Confirmation in Job for Blind Persons

The National Federation for the Blind has been struggling hard to get their demands accepted. One of the demands was that of expeditious confirmation of blind persons in their jobs. The matter was examined by the Ministry of Home Affairs which was of the opinion that there was no question of grant of preferential treatment to blind persons in the matter of their confirmation in posts. However, the Ministry noticed that due to administrative delays, a large number of blind employees were not confirmed and continue to be temporary for a number of years.

Accordingly, the Ministry of Home Affairs instructed all the Ministries/Departments of Government of India that there should not be any delay in confirmation of officers including blind persons on account of administrative delay.

(b) Appointment of Blind Persons as Caners in Government Departments

In order to provide suitable jobs for the blind persons, the Government of India has decided that as far as possible, the entire work of recanting of chairs in Government of India offices should be done by the blind persons. And where the volume of work is such as may justify full-time chair recanted, the decision says that question of creation of posts in suitable scale may be considered in consultation with

Ministry of Finance In accordance with normal procedure. The decision further says that in order to get such blind persons, vocational Rehabilitation Centers and Special, Employment Exchanges for the physically handicapped may be contacted by the various departments.

(c) Reservation for the Physically Handicapped in Posts Filled by Promotion

As per order of the Government of India, it has been decided that when promotions are being made (i) within Group 'D' (ii) from Group 'D' to Group 'e' and (iii) within Group 'C', reservation will be provided for the three categories of the physically handicapped persons namely, the visually handicapped the hearing handicapped and the orthopedically handicapped.

(d) Fitness of Candidates with Pacemakers for Government Service

Though a person with pacemaker does not fall in any of the categories of disabled, still a question raised was whether such a person should be considered for employment under the Government, in so far as medical standards are concerned. The answer by the government of India was in affirmative. Now a candidate having got a pacemaker implanted may be considered fit for all Government services except for the following posts:

(i) Pilots,
(ii) Jobs in the Defenses Forces, Police and Security,
(iii) Railway or Bus Drivers,
(iv) Posts attached to electro-magnetic areas,
(v) Any other post requiring higher standards of physical fitness.

Some Clarifications Regarding Reservations for the Physically Handicapped

(i) Whether reservation for physically handicapped person is to be provided in vacancies or in posts?

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(ii) Whether reservation which could not be provided in the exempted categories will be accommodated in the category of posts where reservation applies?

(iii) Whether reservation applies only to identify posts?

(iv) Whether reservation applies to Group ‘c’ and Group ‘D’ posts taken as a whole or separately to each category of posts?

Above said did the four prime questions need clarification before the Government of India. The Ministry of Social Welfare organized a meeting of the Central Advisory Committee which discussed the issue and clarified the same. The clarification on the above points seriatim is as under:

(i) The present scheme of reservation of 3% for handicapped persons is based on occurrence of vacancies from time to time and not on the total number of posts in a particular category.

(ii) The posts which have been exempted from the purview of reservation scheme, will have to be excluded, therefore, reservation orders will not be applicable to the exempted categories of posts. Hence the question of computing 3% of vacancies in exempted category and adjusting it to the category where reservation order applies does not arise.

(iii) Reservation of 3% for physically handicapped persons will be applicable to those posts only which have been identified for being suitable to be held by all or any category of physically handicapped persons. Though 1% each can be identified as being suitable for only one category of handicapped persons, the remaining percentage reserved for other category of handicapped persons can be exchanged in favor of the category for which the posts have been found to be suitable. For example, if a particular post is suitable for the orthopedically handicapped person only, then 3% of the vacancies could be reserved for physically handicapped persons belonging to orthopedically handicapped category by exchanging percentage of reservation provided for the other two categories of handicapped persons, i.e., the blind and the deaf.

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65 Supra note 33
66 Supra notes 41 & 42
Reservation for the physically handicapped persons was to be provided in the same manner as is being provided to SC/ST because the points for the physically handicapped persons have been fixed in the same roaster which is being maintained for the purpose of providing reservation for SC/ST. Therefore, reservation for the physically handicapped will also have to be provided separately in each category of posts within Group 'c' and Group 'D'. The logical corollary of the principle is that the roaster should be maintained for each category of posts within Group 'c' and Group 'D' post in a Ministry or Department.

5.4. Sympathetic View by University Grants Commission

The University Grants Commission (UGC) has issued the instructions to all the Universities that a sympathetic view should be taken in the recruitment of physically handicapped persons, the blind persons In particular, for suitable appointments in the teaching departments of the universities and in the colleges provided they fulfill the prescribed qualifications and conditions with following instructions:

(a) The U.G.C. issued a circular to all the universities

(i) When qualified blind persons are available for appointment to teaching posts in the universities and colleges, they should not be ignored simply because they are blind.

(ii) Qualified blind persons should be employed for tutorial work in certain subjects or even for post-graduate teaching where enrolment is small; and

(iii) Blind persons should be given preference for appointment in teaching music.

68 Ibid., at p. 34
(b) *Travel Concession for the Disabled*

Another problem of the disabled is their physical mobility. Ability to travel independently acquires significance when it is discussed in relation to the disabled. It becomes all the more significant when we know that majority of the disabled population are living below poverty line. If a disabled is made mobile, his exposure to the world outside and interaction with person with severer disability helps in his understanding and overcoming his own problem. In this background in the mind, one can't help appreciating the move by Government of India granting fare concession, both by rail and airways to the disabled. According to revised instructions, the following fare concessions are available to various categories of the disabled:

**By Rail**

<table>
<thead>
<tr>
<th>Element of Concession</th>
<th>Season ticket</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>I</td>
</tr>
<tr>
<td></td>
<td>Class</td>
</tr>
<tr>
<td>1. Blind person travelling alone or with an escort on production of a certificate from government doctor or Registered Medical Practitioner</td>
<td>75%</td>
</tr>
<tr>
<td>2. Orthopedically handicapped travelling with an escort on production of a certificate from a government doctor to the effect that the person concerned is orthopedically handicapped and cannot travel without assistance of an escort</td>
<td>75%</td>
</tr>
<tr>
<td>3. Deaf and Dumb travelling alone (both afflictions together in the same person) on production of a certificate from a Government doctor</td>
<td>75%</td>
</tr>
<tr>
<td>4. Mentally Retarded persons travelling with an escort on production of a certificate from a Government Doctor</td>
<td>75%</td>
</tr>
</tbody>
</table>

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By Air

The Indian Airlines Corporation\textsuperscript{70} allows 50\% concessional fare to blind passenger on single journey or single fare for round trip journeys on all domestic flights. To avail this facility (for blind persons) they have to produce a certificate from a medical practitioner. The circular granting such concession further says that Air Hostess/Steward will look after the blind passengers not accompanied by escorts in flight. The Public Relations Officer or the Traffic Officer in charge at the airport will render necessary assistance to such infirm passengers at the airport of the departure and arrival. This concession cannot be combined with any other concessional fare allowed by the Indian Airlines.\textsuperscript{71}

Escorts of the blind, deaf and dumb and orthopedically handicapped persons are not given this concession. However, orthopedically handicapped are allowed to carry a pair of crutches or any other prosthetic devices free of charge!\textsuperscript{72}

\begin{center}
\textbf{(c) Concessions by Posts and Telegraph Department}
\end{center}

Payment of postage, both inland and foreign, for transmission by post of 'Blind Literature' packets is exempted if sent by surface route only. This concession is not available, if literature is sent by air mail. However, the 'Blind Literature' packet meant for exemption must not weigh more than 7 Kg.\textsuperscript{73}

\begin{center}
\textbf{Telecommunication}
\end{center}

It has been decided\textsuperscript{74} to provide one telephone facility to blind persons on concessional and priority basis on following terms:

<table>
<thead>
<tr>
<th>(i) Rental rebate</th>
<th>50% of the normal rent</th>
</tr>
</thead>
<tbody>
<tr>
<td>(ii) Advance rent</td>
<td>50% of the annual advance rental and bi-monthly rent</td>
</tr>
</tbody>
</table>

\textsuperscript{70} \textit{Indian Airlines} (1990): Circular No. CIM/17, 18.5.1965 and Circular No. 490 (R&T) dated 16\textsuperscript{th} May.
\textsuperscript{71} Ibid. at p. 34.
\textsuperscript{73} Id.
\textsuperscript{74} Government of India (1983): “\textit{Ministry communications}”, Department of Telecommunications No. 9-27/93-PHA, 23th September.
(iii) Registration fee | Normal, as in the case of Private subscriber.
---|---
(iv) Installation Charges | Normal, as in the case of private subscriber
(v) Category | Non-OYT Special
(vi) Free call units | as admissible to a private subscriber.

(d) Preference in Allotment of S.T.D. Payphones to Physically Handicapped persons

Only educated unemployed physically handicapped persons are eligible for allotment of STD Payphones. The educational qualifications for the applicants are:

(i) For rural areas: 8th or middle school pass or above

(ii) For Urban areas: at least matriculate or high school

One applicant is entitled for only one STD payphone. Application is to be submitted in the prescribed Performa enclosing the unemployment certificate and agreeing to the terms and conditions prescribed by the Department of Telecommunication for the operation of STD payphones.

(e) Customs Concessions

Individuals

The Central Government exempts goods specified below, when imported into India by a handicapped or disabled person for his personal use, from the whole of the duty of customs and the additional duty subject to the condition that the importer produces to the Assistant Collector of Customs, at the time of importation, a certificate from the Civil Surgeon of the District Medical Officer or the Administrative Medical Officer or the Director of Health Services of the concerned State or a Specialist in the concerned specialist attached to a Govt. Hospital or a recognized medical college "to

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the effect that the importer suffers from the particular handicap or disability and that the imported goods in respect of which the exemption is claimed are essential to overcome the said handicap or disability. The list of the goods exempted from the duty of custom is as below:

- Braille writers and Braille writing equipment.
- Hand-writing equipment.
- Braille Frames, Slates, Writing guides styli, Braille Erasers, Script writing guides.
- Canes, electronic aids like the Sonic guide optical, Environmental Sensors.
- Arithmetic Aids like the Taylor Frame (Arithmetic and Algebra Types), Cubarythm, Speaking or Braille Calculator. Geometrical Aids, like combined Graph and Mathematical Demonstration Board, Braille protractors, Scales, Compasses and Spar Wheels. Electronic measuring equipment, such as calipers, Micrometers, Comparators, Gauges, Blocks, Levels, Rules, Rulers and Yard-sticks, Drafting drawing aids, Tactile displays. Specially adapted clocks and watches, orthopedic appliances falling under Heading of the First Schedule to the said Tariff Act, Wheel-chairs falling under Heading of the said First Schedule, Artificial Electronic Larynx and Spares thereof.

**Institutions**

The Institutions (including Registered Co-operative Societies)\(^{77}\) for the permitted to import equipment below, being bona fide gifts to Blind and the Deaf are and apparatus as per list to, or purchased out of donations received in foreign exchange by such institutions from:

- The whole of the duty of customs livable thereon under the First Schedule to the Customs Tariff Act, 1975 (51 of 1975)

The whole of the auxiliary duty of customs livable, under sub-section (1) of section 35 of the Finance Act and the whole of the additional duty livable thereon under section 3

of the said Customs Tariff Act at the time of importation of such goods into India. The equipment and apparatus under exemption are listed below: All tangible appliances for the blind.

Hearing aids and other audio-visual aids for the education of the deaf. Vocational aids for the blind and the deaf. Articles including instruments, apparatus, appliances, machinery and spares or component parts of accessories thereof required by such institutions for the purpose of giving training or imparting instructions to the blind and the deaf.

**Exemption for Braille paper**

Ministry of Finance has exempted Braille paper, falling under item No. 17 of the First Schedule to the central Excise and Sales Act, 1944 (1 of 1944) from the whole of the duty of excise livable thereon, subject to the condition that such paper is supplied direct to a school for the blind or to a Braille press against an indent placed by the National Institute for the visually Handicapped, Dehradun.

**Import of Audio Cassettes**

Ministry of Finance has exempted audio-cassettes, falling within Chapter 85 of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975) recorded with material from books, newspapers or magazines for the blind when consigned by an organization listed in Annexure-I below and imported into India by an Organization listed in Annexure-II below from:

1. The whole of the duty of customs livable thereon, which is specified in the said first Schedule; and

2. The whole of the additional duty livable thereon under Section 3 of the said Customs tariff Act, subject to the conditions that :-

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80 See Annexure - I
81 See Annexure -II
(i) The audio cassettes so imported shall be re-exported within one year from the date on which these are imported into India or such an extended period as the Assistant Collector Customs may allow.

(ii) The Importer executes an undertaking binding himself to pay an amount equal to the duty livable on the audio-cassettes at the time of import to the Assistant Collector of Customs In the event of failure to re-export the said audio- cassettes within the period specified 'or, as the case may be, such extended period as may be allowed; and

(iii) The importer produces the audio-cassettes before the proper office', for identification before re-export.

(a) Scheme of Assistance to Disabled Persons for purchase/ Fitting of Aids/Appliances

The Union Ministry of Welfare operates a scheme under which assistance is given to disabled persons for the purchase and fitting of aids and appliances. The object is Programmes through the Publication, to promote their physical rehabilitation as well as their capacity to participate in economic activities. The following disabled are eligible for assistance:

(i) Indian citizen of any age and sex.
(ii) Person who is certified to be disabled by a registered medical practitioner.
(iii) Persons who are employed/ self-employed or getting pensions and whose average monthly income from all sources does not exceed Rs. 2500/-
(iv) In case of dependents, the income of parents/guardians should not exceed Rs. 2500/- p.m.
(v) Persons who have not received assistance from the Government Local Bodies and non-official organizations during the previous two years for the same purpose. However, for children below 12 years of age, this limit would be one year.

(b) **Quantum of Assistance**

Only those aids and appliances which do not cost less than Rs. 25 and more than Rs. 3600/- are covered under this scheme. These limits apply to individual items of aid/appliance and where more than one aid is required, giving of same is permissible and the limits apply separately. The amount of assistance is as follows:

<table>
<thead>
<tr>
<th>Total Income</th>
<th>Amount of Assistance</th>
</tr>
</thead>
<tbody>
<tr>
<td>(i) Up to Rs. 1200/- p.m.</td>
<td>Full cost of the aid</td>
</tr>
<tr>
<td>(ii) RS. 1201 to Rs.2500 p.m</td>
<td>50% of the cost of the aid</td>
</tr>
</tbody>
</table>

In addition to this scheme, there is another scheme offering loans at the rate of 4 percent per annum for purchasing aids/appliances. Under this scheme, the physically handicapped persons including the blind, eligible under DRI scheme, are given loans for purchasing of artificial limbs, hearing-aids, wheel-chairs etc. subject to maximum of Rs. 2500/- per borrower, provided such assistance is given along with the advances for productive activities and self-employment ventures.  

(c) **Scheme of Subsidy for Purchase of petrol/Diesel**

Physically handicapped owners of motorized vehicles are granted exemption from the payment of road-tax I by State Government/Union Territory Administration. Those granted exemption and having an income up to Rs. 2500/- p.m. from all sources, are eligible to claim -refund up to 50% of the expenditure incurred by them on purchase of petrol/diesel from recognized dealers subject to a ceiling as indicated below:

- Vehicles upto 2 H.P - 15 Litres per month
- Vehicles more than 2 H.P - 25 Litres per month

(d) **Award of Dealership /Agencies by Oil Companies**

Ministry of Petroleum & Natural Gas has reserved 7.5 % of all types of dealerships/agencies of the public sector oil companies for physically

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84 Supra note 82 at 39 Supra note 82 at p. 25
85 Id.
handicapped/Government personnel disabled on duty (other than Defense personnel/widows of such Government personnel). The reservation scheme covers Retail Outlet, 2/3 Wheeler Outlet, Kerosene & Light Diesel Oil (LDO) "dealership and LPG distributorships.

(e) **Eligibility criteria**

To be eligible, the disabled:

(i) Should be Indian National
(ii) Should be between 21-30 years age group
(iii) Should produce a certificate from civil surgeon/ CMO to the extent of minimum '40% permanent/partial disability of either upper or lower limbs or 50% permanent/partial disability of both upper and lower limbs together. (Totally blind persons are also eligible for this reservation except for LPG distributorships).
(iv) Whose income should not be more than Rs. 50,000/- per annum?
(v) should have passed Matriculation examination or equivalent
(vi) Economic Assistance to Physically Handicapped

Public Sector Banks

Under the scheme of Public Sector Banks\(^86\) for orphanages, Women's Homes and Physically Handicapped persons’, the benefits of the differential rate of interest are available to physically handicapped persons as well as institutions working for the welfare of the handicapped. The details of the scheme are as under:

Eligibility (For Individual)

The physically handicapped persons are eligible to take loans (Rs. 6500/ - for working capital loan and Rs. 5500/- for a term loan) @4% per annum repayable within five to seven years, without offering any tangible security, if they satisfy the following conditions: Should be pursuing a gainful occupation Family income from all sources

should not exceed Rs. 7200/- p.a. in urban or semi-urban area or Rs. 6400 p.a. in rural areas. Should not have land-holding exceeding one acre, if irrigated and 25 acres, if un-irrigated. Should not incur liability to two sources at the same time should work largely on their own and with such help as other member of their family or some joint partners may give them and should not employ paid employees on a regular basis.

Eligibility (For Institutions)

Institutions for the physically handicapped persons pursuing a gainful occupation are also eligible to take loan benefit for the same amount at the same rate of interest. However, the above institutions are exempted from income criteria. These institutions could utilize the funds for productive purposes only and not for meeting their normal administrative and establishment expenses.

Subsidy to handicapped under the Integrated Rural Development Programme (IRDP)

Under the IRDP\(^{87}\), 3% quota is earmarked for the physically handicapped persons. The Government has now decided that per family subsidy limit under IRDP be raised from:

- Rs. 3000/- to Rs. 4000/- in normal areas. RS.4000/- to Rs. 5000/- in drought-prone areas and desert development programme areas, Rs. 5000/- to Rs. 6000/- for physically handicapped beneficiaries.

Concession in the Allotment of Residential Accommodation to the Physically Handicapped Employees

There is a policy - decision that the employees\(^{88}\) who have been recruited as physically handicapped persons out the quota reserved for them in employment, their requests for ad-hoc allotment of General Pool residential accommodation on medical grounds, be decided by Assistant Director, Estates, of the concerned section without

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reference to Special Accommodation Committee and they be allotted the accommodation out of turn.

**L.T.C. for Escort Accompanying Physically Handicapped Employees**

L.T.C. facility is allowed for an escort\(^{89}\) who accompanies a handicapped government servant on the journey subject to the following conditions:

(i) Prior approval of the Head of the Department concerned is obtained on each occasion.

(ii) The nature of physical disability of the government servant is such as to necessitate an escort for the Journey. In case of doubt, the decision of the Head of the Department will be final.

(iii) The government servant and the escort avail of the concession, if any, in bus/rail fare as might be extended by State Roadways/ Railways authorities in such cases.

(iv) The physically handicapped government servant does not have an adult family member.

(v) Any other person who is entitled to LTC does not accompany the handicapped government servant on the journey.

(a) **National Awards for the Welfare of the Disabled**

1. National technology award for the welfare of the handicapped

   Recently started, under this scheme awards\(^{90}\) are given annually for work in India in three types of disability, namely orthopedic handicap, the visual handicap and the speech and hearing handicap for a technological invention for an aid or appliances which ameliorates the handicap and substantially help persons suffering from these handicaps. The invention is judged by the following criteria:

   (i) Its effectiveness in increasing the mobility of handicapped people.

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(ii) Its effectiveness in increasing the productivity or employment potential of handicapped people.

(iii) Its effectiveness in facilitating communication with handicapped people.

(iv) Its effectiveness in providing education to handicapped people.

(v) Its effectiveness in providing entertainment to handicapped people.

(vi) Any other criteria, which may be adopted by a high level committee appointed by the Ministry of Welfare.

The award, one each in three disabilities, namely, orthopedic handicap, visual handicap and speech and hearing handicap, consists of the following:

(i) Cash prize Rs. 20000

(ii) Citation

In addition, the selected winners are provided free boarding and lodging in Delhi and travel to and from their places of residence to receive the award.

2. In addition to the above, there is another scheme of awards for the welfare of the handicapped. These awards fall into following two categories:

(i) Awards to outstanding employers/ placement officers of the handicapped and outstanding handicapped employees/ self-employed handicapped persons.

(ii) Awards to individuals and to institutions having done outstanding work in the cause of the disabled.

These awards are given away annually by the president of India on the World Day for the Disabled which is celebrated in March every year.

The government seems to have paid a special attention to rehabilitate the defense services personnel disabled in operations against the enemy or in disturbed areas. A number of programmes and policies have been formulated and

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implemented since independence. However, an explicit national policy for the welfare of the disabled defense services personnel has not so far been evolved consequently; they have been granted some concessions/relaxations/priorities among the general social welfare programmes. While considering such persons for appointment to all civil posts, the government keeps in mind the services rendered by them in safe guarding the security of the country. Consideration is also given to the training received by them which makes them particularly suitable for posts requiring qualities of leadership, discipline and devotion to duty. In the following text, we shall examine various concessions/relaxations/priorities granted to them by the government.

5.5. Reservations/Priorities

For the purposes of appointment to Group 'C' and Group 'D' posts under the Central Government filled through the employment exchange, the disabled defense service personnel disabled whether during war or in peace time, but disability attributable to military service are accorded priority-I. Provision is there to grant Priority to two members each of the families of defense service personnel killed in services or severely disabled (with over 50% disability and who have become unfit for employment but disability attributable to military service) whether during war or peace time. Posts reserved for Ex-servicemen and priority Category cannot be filled through any other source without first making reference to the Ex-servicemen cell of D. G. E. & T. and obtaining a certificate that no suitable disabled defense service personnel or their dependents was available with them.

In case of increase in the reservation of vacancies for ex-servicemen in the Central Government, the additional vacancies so made available shall be utilized first for the appointment of disabled defense services personnel, if such vacancies still remain unfilled these will be made available to other categories of ex-

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93 Ibid. at p. 23.
servicemen.⁹⁵ For Class I & Class II⁹⁶ posts, recruitment to which is normally made through Union Public Service Commission otherwise than on the results of competitive examinations conducted by the Commission, the case of disabled defense services personnel who possess required qualifications and experience and whose age does not exceed 45 years, will be entitled for Priority for appointment to these posts provided they are found suitable by the commission.⁹⁷

(b) Concessions/Relaxations

(i) Relaxations in age

For appointment of both reserved and unreserved vacancies in Group 'c' and 'D' posts, ex-servicemen are given age relaxation up to 45 years (50 years in case of defense services personnel belonging to SC/ST category).

They are entitled also to the benefit of age relaxation by the length of military service, plus three years. The disabled defense services personnel can avail him of either of these two age relaxation benefits whichever is advantageous to him.⁹⁸

Disabled defense services personnel are also eligible for appointment to Group ‘A’, ‘B’ & ‘C’ posts which are filled on the basis of results of competitive examinations conducted by the Union Public Service Commission/Staff Selection commission provided they are educationally qualified. For appearing in the examination they are allowed relaxation in the upper age limit by 3 years (8 years in the case of disabled defense services personnel belonging to SC/ST category). They would however, not be allowed to avail themselves

⁹⁶ The present classification of Group A, B, C and D, posts refers to the erstwhile Class I, II, and III & IV posts respectively.
of a large number of chances of recruitment to a service, or a group of services, than the maximum number of chances permissible to general candidates who do not enjoy age relaxation. This age relaxation has also been extended to competitive examinations held by bodies other than Union Public Service Commission/Staff Selection commission, like the Institute of Secretariat Training and Management. A certificate of age from the Directorate General of Resettlement, in the Ministry of Defense will be accepted as documentary evidence in support of the claim of disabled defense services personnel.

(ii) **Relaxation in educational qualifications**

Disability defense services personnel who are considered for appointment of Group 'C' posts filled through the Employment Exchanges but who do not possess the required educational qualification, will not be considered ineligible for appointment merely on that ground. Their ability to discharge the duties expected of the incumbents of the particular Group 'C' posts is to be assessed on the basis of suitable tests designed by the appointing authorities.

For appointment to Group 'D' posts the prescribed minimum educational qualification of middle school standard or a lower standard will be relaxed in case of those disabled defense services personnel who have put in 3 years of service before being declared invalid by the Ministry of Defense or whose total service in the Defense Forces or a civil department is not less than 3 years. The Life Insurance Corporation of India also does not insist on the

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prescribed minimum percentage of marks in case of disabled defense services personnel.  

(iii) Relaxation in medical standards

The disabled Defense Services personnel are examined by the Demobilization Medical Board of the Defense Services and the certificate of fitness granted by that Board is considered adequate for the purpose of employment of such disabled personnel in Class I to IV posts. However, if the physical capacity of a person either deteriorates or improves after demobilization, the employing authority may require a fresh medical examination by the appropriate Civil Medical Board. In that case; the medical Board will follow the norms laid down for the Defense Service Medical Board and if the disabled personnel are found fit for discharging the duties of the post they will be considered as medically fit.

5.6. A Critique of the Executive Ameliorative Measures

A close scrutiny of various executive instructions granting concessions / relaxations / reservations/priorities / subsidies etc. shows that the government does have the problem of the disabled in mind aid has shown some concern to solve them also. But, as pointed out by Krishna Iyer, an eminent Indian jurist, one should be thankful for small mercies, the benefit rules for the disabled are far from being simple. The benefit accruing to the disabled are grossly inadequate and are hedged in with too many conditions. The result is that the handicapped are further handicapped. There are all forms, Performa’s, statements, affidavits, certificates and procedural red-tapism. They are likely to prove a "paper logged project, a teasing illusion and promise of unreality."

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105 Ibid., at p. 131
107 Ibid., at p. 45
Imparting education is the most important thing which a government can do for the people. In case of the disabled, education has to be the starting point for ameliorating their condition. Besides enlightens them about their problems and situations thereof, education infuses confidence and courage among the disabled and makes them functional. Thus they can be gainfully employed. But it has been observed that some parents feel shy of getting their disabled ward enrolled in the school. Therefore, there is an urgent need of educating the public about the benefits and necessity of educating their disabled children. Here it is public rather than the government is to be blamed because the parents, having the first concern about their handicapped child, should themselves have been aware of the need of making their disabled child literate.

It is heartwarming to note that our government has shown awareness to this in deniable fact. For example, it has launched a scheme of integrated education for the disabled children. Scheme is launched with the object of avoiding segregation of the handicapped from the society. Under the scheme, handicapped children are sought to be integrated in the normal school system.

Keeping in mind the conditions of poverty in the country, and the extra expenditure which the parents of the handicapped child have to bear for bringing him up and getting medical treatment, the government has come out with a scheme of scholarships to the disabled students "to enable them to earn a living and to become useful members of the society." But the scholarship is awarded from Class IX onwards only. But it should not be forgotten that even till class VIII, the parents of the disabled children have to spend a lot of money. One also finds that the scholarship is awarded only for a maximum period of six years after class XII. Under the scheme of scholarships, no scholarship would be admissible to pursue studies beyond post graduation. Why not to allocate some scholarships for the disabled persons for research could not only be a also for the society and the state. Then the amount of


Scholarships is so less that the parents and the physically handicapped children experience more humiliation than pleasure in accepting it.

Mention must also be made of children's educational allowance permissible to the disabled children of government employees only. What about the disabled children of the parents who are not in government job. When it comes to reserving jobs for the physically handicapped, they have been limited to Group 'C' and Group 'D' posts only and that too, only 3%. The Report of the Committee on identification of Jobs in Group 'A' and Group 'B' Posts for the physically Handicapped submitted in 1986 seems to have been put in deep freezer. The committee had labored hard since 1980 and conducted a "limited" survey of Group 'A' and Group 'B' posts which can be handled by handicapped individuals. However, while examining the report the Department of Personnel and Training in the Ministry of Labor, found that some of the posts identified by the committee could not actually be handled by the handicapped in practice. The report also included promotion posts in technical cadres, while there was no proposal/policy for reservation in promotion posts. The Union Public Service Commission which was consulted in the matter had agreed in principle to give preference to physically handicapped persons in Group 'A' and Group 'B' posts.

The Ministry of Health and Family Welfare also examined the matter and found it very difficult to prescribe medical standards without clearly knowing the physical" requirements of the job and the nature and the degree of the handicap. It was, therefore, thought necessary with reference to each occupational group of posts in the public sector, the job description, and the physical requirements for performance of the job, the working conditions and to ascertain whether any handicapped person can perform the jobs taking into consideration the nature and the extent of the disability.

The Ministry of Welfare, too, has a standing Committee on identification of jobs in the public sector for the physically handicapped persons. This Committee undertook the exercise to identify Group 'A' and Group 'B' posts for the physically handicapped in Central Government offices and public sector undertakings. The

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111 Ibid., at p. 34
identification exercise was carried out irrespective of whether any reservation for the handicapped in Group 'A' and Group 'B' posts would ultimately be provided or merely preference would be given to handicapped in Group 'A' and Group 'B' posts.

A Sub-Committee, which was set up, to assist the Standing Committee visited a large number of public sector undertakings and observed people actually working in a variety of jobs and the working conditions in which these jobs are performed. The Sub-Committee discussions with the chiefs and senior officers of the Public Sector Undertakings are also with officers of the Central Government Departments.

After detailed discussion and on-the-spot study, the Committee prepared a comprehensive list of 416 categories in Group 'A' and Group 'B' posts in governments offices and public sector undertakings, with their job descriptions, the physical requirement of each Group of job and matched them with various categories of disabilities.

It is a pity that our government, the political parties, pressure groups and interest groups all have been indifferent to the question of economic - rehabilitation of the persons with mental retardation and also those with severe/multiple physical handicaps. Everybody seems to have been lost in political transcendental meditation having little time and use for such wretched of the earth. It is understandable that such persons are incapable of handling any job for reasons which are quite obvious. But what prevents the government from reserving jobs for some family member of these categories of the disabled, which in turn 'would ensure their economic security. This will also lead to a total change in the attitude of their family members. Henceforth such a disabled person would not be looked upon as a burden. And the disabled person will also not feel cursed and would have a feeling of being cared for.

The University Grants Commission expects from all the colleges and universities to take a sympathetic view while appointing physically handicapped persons, blind in particular, to various posts but this has not guaranteed employment even to otherwise suitable disabled persons. The university Grants Commission should take the lead and show the path by reserving jobs for the physically handicapped and
the family member of the mentally handicapped and severely physically handicapped persons, if otherwise qualified.

Provision is there that the physically handicapped employee be posted nearest to his residence. This, indeed, is a good gesture. But it would be better if his/her non-handicapped spouse is also posted nearby, if not at the same place, so that he/she can assist his/her disabled partner. It becomes all the more necessary if the disabled is a mentally handicapped or severely physically handicapped who needs someone's physical assistance even for normal activities of life and non-handicapped spouse in service, is posted at a distant place.

Grant of conveyance allowance is available to central government employees who are blind or orthopedically handicapped and not to deaf and dumb. Everyone but perhaps not our government is aware of the fact the deaf is always a dumb also and faces the same difficulties as their counterparts, blind and orthopedically handicapped face, while driving/walking on the roads. The deaf person cannot, for example, listen to horn, whistle of the traffic cop. Therefore, he also has to spend some more in order to be mobile. Why not to extend this facility to the deaf and dumb also?

A scheme is there for the exemption of road-tax and subsidy for the purchase of petrol/diesel to physically handicapped persons owning vehicles but all vehicles driven by them either require extra accessories or are specially designed (fitted with very costly gadgets) and hence become very expensive and thus out of reach of average disabled person. Therefore, there is a need for providing subsidy on the purchase of vehicle itself in the first instance.

To make the handicapped persons of all categories mobile there is a concession offered by Railways. This extends also to an escort accompanying the disabled. However, Indian Airlines Corporation, grants some concessions only to the blind and not to his escort. Blind often finds it difficult to travel alone 'and that, too, by air. This concession should have been there to orthopedically handicap also who finds it absolutely difficult to travel by bus or rail. Travelling by bus or rail is a long drawn out painful experience for the orthopedically handicapped persons. This pain can be lessened by hours and sometimes by days, if this category of the disabled is allowed to travel by air along with an escort on concessional rates.
The government, however, deserves all praise for allowing LTC benefits to an escort accompanying a physically handicapped employee on his journey. The government should, make provision for an escort for the mentally handicapped person while he/she is travelling.

The government also needs to be appreciated for the National Awards to be awarded on the third of December each year on the occasion of the world Disabled Day, to the following:

(i) Best employer of the handicapped;
(ii) Best handicapped employee and self-employed;
(iii) Best individual working for handicapped welfare;
(iv) Best institution working for handicapped welfare;
(v) Placement Officers; and
(vi) National Technology Awards for Welfare of the handicapped.

On this pattern Central Government should also give an award to the State, declared to be on the top in launching and implementing various welfare schemes for the welfare and rehabilitation of the disabled. This award can be in the form of release of more financial assistance and waiving the loans etc.

We see that the executive has shown an interest to do something for the disabled in the field of education, employment, training, economic assistance, medical and health provisions, welfare and rehabilitation, housing, travel, communication and other areas. A critical analysis of this host of benign schemes shows that the government is, at least, aware of what ought to be done. But the gap between / 'ought' and 'is' is so wide that better performance at faster tempo together with the removal of hindrances like complex procedures, lack of uniformities and red-tapism is urgently needed. "While what is done is welcome, what remains to be done are submerged part of the iceberg."\(^\text{112}\)

\(^{112}\) Krishna Iyer (2000): *Law, Justice and the Disabled*, Supra note 106