



20<sup>th</sup> March 2012

Press Release

## **High Court Directs Government to Allow Disabled Persons Applications for 33<sup>rd</sup> BCS and to make Reasonable Accommodations**

The High Court today allowed an application filed on behalf of Adv. Shapan Chowkider, a visually impaired lawyer, and three human rights and disability organisations (BLAST, ASK and ADD) to allow persons with disabilities (PWDs) to sit for the 33<sup>th</sup> BCS examinations. After hearing the application, Justice Naima Haider and Justice Farid Ahmed directed the Public Service Commission to allow persons with disabilities to sit for the 33<sup>th</sup> BCS examination and to ensure reasonable accommodation for them in the exam halls.

This application was filed on 15 March 2012 after the Public Service Commission issued a notification regarding the 33<sup>rd</sup> BCS exams without any reference to persons with disabilities.

The applicants argued for the need to secure the right to equal opportunity in government service for persons with disabilities, and the state's duty to make reasonable accommodations under the Disability Welfare Act 2001, referring to recent Government policy changes. For example, the National Policy on Disability 1995 states that "*A disabled person cannot be treated as disqualified for government employment if s/he is otherwise competent, and s/he cannot be prevented from participating in the BCS examination*". The Policy also states that "*The age limit for persons with disabilities will be relaxed by five years*". Further, the Secretary, Ministry of Public Administration published a notification on 12 January 2012 stating "*1 per cent quota will be reserved for persons with disabilities in all government, semi-government and autonomous offices/institutions*".

Given the deadline for applications, 7 April 2012, if no corrective action were taken, Advocate Shapan Chowkider, the first writ petitioner, now 29 years old, and other disabled persons would be denied the opportunity to participate in the BCS exams, despite being otherwise eligible.

In an immediate reaction to today's ruling, Mosharraf Hossain, Country Director of Action for Disability and Development commented "*The Court's order today has opened up a pathway to removing a long standing source of discrimination. Recently the Government has announced a 1% quota for persons with disabilities in government service, we look forward to the PSC taking necessary steps to implement this urgently*".

Advocate Khondoker Shahriar Shakir appeared for the petitioners.

**Background:** On 18 April, 2010, Advocate Shapan Chowdikar, a visually impaired individual, along with Action on Disability and Development (ADD), Ain O Shalish Kendro (ASK) and Bangladesh Legal Aid and Services Trust (BLAST) filed a writ



petition challenging Schedule 3 of the BCS rules, which prohibits the recruitment of PWDs in the civil service. The petitioners were assisted in their research by the Harvard Project on Disability (HPOD).

The petitioners argued that such institutionalized discrimination violates fundamental rights, particularly to equal opportunities to public employment and to freedom of profession, and that the failure of the government to make any accommodation for employment of such persons amounts to non-compliance with its duties under the Disability Welfare Act. They sought directions to allow PWDs to appear for the next BCS examination and to require the respondents to apply their discretionary powers and to perform their duties, as prescribed by law, to identify cadre posts within the Bangladesh Civil Service as appropriate for PWDs as well as to ensure the hiring of PWDs for these posts.

Subsequently, on 25 April 2010, the High Court directed the President and Secretary of the National Disability Welfare Committee to submit a report within 30 days on the steps taken to implement their obligations under Section 6(2) and Schedule 'Cha' of the DWA.

The Committee submitted a report to the Court but did not mention measures taken to ensure disabled person's employment opportunities, and further noted that the age and educational qualification criteria for recruitment of PWDs to the civil service remained under consideration.

**Practical Experiences:** The ADD Country Director, Musharraf Hossain, was not permitted to take part in the BCS Examinations in 1987 due to his physical disabilities. Adv Shapan Chowkidar qualified for the BCS exams but could not give the exams due to his visual impairment. Zahidul Islam was one of 78 candidates selected for the post of Health Assistant in Cox's Bazar but was not appointed due to his disability. Obaidul Islam Lalon passed the examinations for a job in the Cancer Research Institute, but when the authorities saw that he was disabled, they appointed another person instead of him.

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