

Violation of Human Rights of Persons with Disabilities at the Workplace: Its Legal Framework and Detailed Study of Service Rules as per the Disability Acts of 2010 and 2016 in India

Akhilesh Mishra^{1*}, Dr. Prasenjit Kundu²

^{1*}Research Scholar, Dr. Ram Manohar Lohiya National Law University, Lucknow

²Assistant Professor, Dr. Ram Manohar Lohiya National Law University, Lucknow

Citation: Akhilesh Mishra, et al. (2024), Violation of Human Rights of Persons with Disabilities at the Workplace: Its Legal Framework and Detailed Study of Service Rules as per the Disability Acts of 2010 and 2016 in India, *Educational Administration: Theory and Practice*, 30(1), 6402-6413

Doi: 10.53555/kuey.v30i1.9741

ARTICLE INFO	ABSTRACT
	<p>This paper explores the violation of human rights of persons with disabilities (PWDs) in Indian workplaces, focusing on the legal frameworks such as the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 (PWD Act 1995) and the Rights of Persons with Disabilities Act, 2016 (RPWD Act 2016). The study reviews the legal provisions designed to safeguard the employment rights of PWDs, identifying gaps and challenges in their implementation. Additionally, the paper examines the service rules that govern workplace policies for PWDs and evaluates their alignment with or violation of the principles outlined in the Disability Acts. The findings indicate that while legislative reforms have led to some progress, significant obstacles persist in enforcement, workplace discrimination, and insufficient accommodations for disabled employees. The paper concludes with recommendations aimed at strengthening legal protections and promoting more inclusive work environments in India.</p>

Introduction

The protection of human rights is fundamental to a just society, ensuring that all individuals, regardless of their circumstances or conditions, are treated with dignity and respect. Among the many marginalized groups, persons with disabilities (PwDs) encounter a distinct set of challenges, especially in the workplace. Despite global progress in various regions, the violation of human rights of PwDs in professional environments remains a pressing issue. In India, this challenge is compounded by systemic barriers, limited awareness, and insufficient enforcement of protective laws and policies.

India's legal framework offers several provisions aimed at safeguarding the rights of persons with disabilities. In particular, the **Rights of Persons with Disabilities Act, 2016 (RPWD Act)** and the **Disability Act of 2010** (referred to interchangeably as the 2010 Act) represent significant advancements in addressing barriers faced by PwDs in employment and other aspects of life. These laws outline protections against discrimination and establish a legal foundation to ensure equal access to employment opportunities for PwDs. However, despite these advances, the implementation of these laws often falls short, resulting in ongoing violations of PwDs' rights in the workplace.

This research paper seeks to examine the legal framework addressing the violation of human rights of persons with disabilities in the workplace in India, with a focus on the provisions laid out in the RPWD Act of 2016 and the Disability Act of 2010. Specifically, it will investigate how these laws are applied in the context of service rules for employees with disabilities and assess the effectiveness of these regulations in preventing discrimination and promoting inclusive employment practices.

The paper will offer a detailed analysis of the legal provisions under both the Disability Acts of 2010 and 2016, alongside an in-depth examination of service rules governing PwDs in various sectors. Additionally, it will explore instances where these laws and rules have been violated or inadequately enforced, paying particular attention to the challenges faced by employees with disabilities in securing equal treatment and fair opportunities in the workplace.

Throughout the paper, we will also explore the roles of employers, government agencies, and civil society in ensuring compliance with relevant legislation, and propose potential measures to improve both the legal

framework and its implementation. Through this comprehensive analysis, the paper aims to illuminate the systemic violations faced by PwDs in the workplace and offer strategies to remedy these injustices, fostering a more inclusive and equitable workplace environment in India.¹

Legal Framework for Protection of Persons with Disabilities in the Workplace in India

India has made significant progress in recognizing and protecting the rights of persons with disabilities (PwDs), especially in the realm of employment. The legal framework safeguarding the rights of PwDs in the workplace is primarily defined by two key pieces of legislation: the **Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995**, also known as the Disability Act of 1995, and the **Rights of Persons with Disabilities Act, 2016 (RPWD Act)**. Additionally, several other Indian labor laws contribute to the protection of PwDs in employment settings.

1. Rights of Persons with Disabilities Act, 2016 (RPWD Act)

The RPWD Act of 2016 is a landmark piece of legislation in India, aligning with the United Nations Convention on the Rights of Persons with Disabilities (CRPD), which India ratified in 2007. This Act aims to promote the full participation of PwDs in society, particularly in sectors such as employment, education, and public life. It directly addresses workplace discrimination and mandates provisions for equal opportunities and reasonable accommodation.

Key provisions under the RPWD Act related to workplace protection include:

- **Section 34 (Equality in Employment):** This section ensures that PwDs cannot be discriminated against in employment and requires the government and employers in both public and private sectors to provide equal access to employment, career development, and promotions.
- **Section 35 (Employment in Government Establishments):** At least 4% of government job vacancies must be reserved for PwDs, with necessary adjustments made to accommodate their needs, including reasonable accommodations where required.
- **Section 36 (Employment in Private Sector):** The Act encourages private sector employers to hire PwDs by offering incentives and promotes inclusive hiring practices. It also mandates reasonable accommodations to enable PwDs to perform their tasks.
- **Section 47 (Non-Discrimination in Workplaces):** This provision prohibits any form of discrimination based on disability, requiring workplaces to ensure reasonable adjustments like physical accessibility, modified working hours, and task modifications.
- **Section 48 (Accessible Work Environment):** Employers must ensure that workplaces are physically accessible, allowing PwDs to move freely and perform tasks without barriers.

2. The Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 (Disability Act of 1995)

Before the enactment of the RPWD Act, the Disability Act of 1995 was the primary legislation addressing the rights of PwDs in India. While the Act laid the foundation for disability rights, it was less comprehensive and lacked a strong focus on practical implementation.

Key provisions related to the workplace under the Disability Act of 1995:

- **Section 47 (Employment Rights):** Similar to the RPWD Act, this section mandates job reservations for PwDs in the public sector and ensures that they receive equal pay and benefits for similar work.
- **Section 48 (Promotion and Employment Policies):** Employers were required to create policies that promote the employment of PwDs and provide career advancement opportunities.

Although the Disability Act of 1995 laid the groundwork, the RPWD Act of 2016 significantly improved and expanded these provisions, offering more robust protections, broader definitions of disability, and a more comprehensive approach to inclusion.

3. Other Relevant Legislation

In addition to the Disability Acts, other Indian labor laws further contribute to the protection of PwDs in the workplace:

- **The Equal Remuneration Act, 1976:** This law prohibits discrimination based on gender and ensures that employees are paid equally for equal work. While primarily focused on gender, its principles are also applicable to PwDs, ensuring that they receive equal pay for work of equal value.
- **The Industrial Disputes Act, 1947:** This Act protects workers from unfair dismissal, retrenchment, and other labor disputes. PwDs are entitled to the same protections as other employees, ensuring that any dismissal or layoff follows due process.

¹ Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, No. 1 of 1996, § 2, India; Rights of Persons with Disabilities Act, 2016, No. 49 of 2016

- **The Factories Act, 1948:** This Act ensures the health, safety, and welfare of workers in factories, including PwDs. It mandates workplace conditions that are safe and accessible for all workers, with a focus on creating inclusive work environments.

- **The Maternity Benefit Act, 1961:** Although primarily aimed at female employees, this Act is also relevant for PwDs in terms of creating an inclusive environment that provides accessible benefits, such as maternity leave and related accommodations.

4. Role of Service Rules in Protecting the Rights of PwDs

Service rules within organizations, both public and private, are crucial in enforcing the provisions of the RPWD Act and the Disability Act. These rules must align with the legal frameworks to ensure that PwDs have equal access to employment opportunities, benefits, and career advancement. Key areas of focus in service rules include:

- **Reasonable Accommodation:** Service rules must specify that employers are required to provide reasonable accommodations, such as flexible working hours, assistive technologies, modified workstations, or job reassignments, to support employees with disabilities.

- **Non-Discrimination Provisions:** Service rules should contain clauses that prevent discrimination and ensure equal treatment of PwDs, particularly with regard to promotions, job assignments, and benefits.

- **Accessibility and Inclusion:** Service rules should mandate physical accessibility in the workplace, ensuring that PwDs can navigate the office environment easily and safely.

- **Grievance Redress Mechanisms:** Clear procedures for addressing complaints of discrimination or rights violations must be established in service rules, including the appointment of a Disability Officer or Ombudsman to handle such issues effectively.

The legal framework in India for protecting the rights of persons with disabilities in the workplace is comprehensive, with the RPWD Act of 2016 serving as the cornerstone of disability rights in employment. Through its various provisions, the Act mandates non-discrimination, reasonable accommodation, and equal opportunities in both public and private sectors. However, while these laws provide a solid foundation, their success hinges on effective implementation and enforcement, as well as the active participation of employers in fostering inclusive workplaces. Service rules within organizations must reflect these legal protections, ensuring that PwDs can exercise their rights and work in equitable, supportive environments. This will contribute to the creation of workplaces that are truly inclusive and accessible to all.²

Protection of Persons with Disability Acts of 2010

In 2010, India initiated the process of revising its disability legislation to better align with the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD), to which India became a signatory in 2007. The Ministry of Social Justice and Empowerment constituted a Committee to draft a new legislation, aiming to replace the existing Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995. The Working Draft of the Rights of Persons with Disabilities Act, 2010, was released on December 1, 2010.

This draft proposed significant changes, including:

- **Expansion of Disability Definitions:** The draft sought to broaden the scope of recognized disabilities beyond the seven categories identified in the 1995 Act.

- **Comprehensive Rights Framework:** It aimed to establish a more robust framework for the protection and promotion of rights for persons with disabilities, encompassing various aspects of life, including education, employment, and accessibility.

- **Institutional Reforms:** The draft considered the integration of provisions from other disability-related legislations, such as the Mental Health Act, 1987, and the National Trust Act, 1999, into a single comprehensive law. However, the draft faced criticism for potentially exceeding its mandate by attempting to consolidate multiple disability legislations, which led to debates about its scope and objectives. Ultimately, the legislative process culminated in the enactment of the Rights of Persons with Disabilities Act, 2016, which replaced the 1995 Act and incorporated many of the proposed changes, including the expansion of recognized disabilities and the establishment of a more comprehensive rights-based approach.

Therefore, while the Disability Act of 2010 was a pivotal step in the evolution of disability rights legislation in India, it was the RPWD Act of 2016 that ultimately became the operative law, providing a more inclusive and rights-based framework for persons with disabilities in the country.³

² Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, No. 1 of 1996, 2, India; Rights of Persons with Disabilities Act, 2016, No. 49 of 2016

³ The Rights of Persons with Disabilities Act, 2016, No. 49 of 2016

Protection of Persons with Disabilities Act, 2016 (RPWD Act)

The **Rights of Persons with Disabilities Act, 2016** (RPWD Act) is a landmark piece of legislation in India, which aims to ensure the full and equal participation of persons with disabilities (PwDs) in all aspects of life, including employment, education, healthcare, and political participation. It replaced the **Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995**, bringing India's legal framework for disability rights in line with international standards, particularly the **United Nations Convention on the Rights of Persons with Disabilities (CRPD)**.

The RPWD Act of 2016 is comprehensive in its scope and aims to provide PwDs with a robust legal framework that guarantees their rights, protects them from discrimination, and ensures accessibility and inclusion in society. Below are the key provisions and features of the RPWD Act of 2016:

Key Features of the RPWD Act, 2016

1. Definition of Disability

The RPWD Act broadens the scope of disabilities covered under the law. The Act recognizes **21 categories of disabilities**, including:

- Visual impairment
- Hearing impairment
- Locomotor disabilities
- Autism spectrum disorder
- Intellectual disabilities
- Mental illness
- Multiple disabilities
- Acid attack victims, etc.

This is a significant expansion from the earlier law, which recognized only seven categories of disabilities.

2. Rights of Persons with Disabilities

The RPWD Act provides a comprehensive set of rights for PwDs, aimed at ensuring their equality and dignity. These include:

- **Right to Equality:** Ensures that PwDs are not discriminated against in any form, be it in education, employment, or access to government services.
- **Right to Live Independently:** The Act provides for the right to live independently and be included in the community.
- **Right to Education:** Ensures equal access to education for PwDs, including the provision of appropriate support, infrastructure, and training for teachers.
- **Right to Health and Social Services:** Ensures access to health care and social security benefits for PwDs.

3. Non-Discrimination in Employment (Section 34)

• **Equal Opportunities and Non-Discrimination:** The Act mandates that PwDs should have equal opportunities in employment and should not face discrimination based on their disability.

• **Reasonable Accommodation:** Employers are required to make reasonable adjustments in the workplace to accommodate the needs of PwDs. This includes modifying job roles, providing assistive technologies, or adjusting work hours.

4. Reservations in Government Employment (Section 34)

The Act stipulates that **4% of government jobs** should be reserved for PwDs. The breakdown of this reservation is as follows:

- **1% each** for persons with:
 - Locomotor disability
 - Hearing impairment
 - Visual impairment
 - Other disabilities

Additionally, the government is required to make adjustments in the recruitment process to accommodate PwDs and ensure they are considered for jobs based on their capabilities.

5. Accessibility (Sections 40-42)

The Act mandates that both **public and private buildings**, as well as **transportation systems**, must be made accessible to persons with disabilities. This includes:

- **Physical access:** Making buildings, roads, and transport systems physically accessible to PwDs.

• **Information and communication:** Ensuring that information and communication technologies (ICT) are accessible to PwDs. For example, websites should have accessible features such as screen readers for the visually impaired.

6. Social Security and Welfare Schemes (Section 25)

The RPWD Act directs the government to design and implement schemes for the **economic and social welfare** of PwDs. These include schemes for financial support, health services, and access to rehabilitation.

7. National and State Level Commissions (Sections 56-59)

The Act provides for the establishment of:

- **National Commission for Persons with Disabilities (NCPD):** This body will oversee the implementation of the Act and investigate complaints related to the violation of rights of PwDs.
- **State Commissions:** Each state is required to establish a similar commission to handle regional issues related to PwDs.

These commissions play a vital role in ensuring that the rights of PwDs are upheld and that complaints of discrimination are addressed.

8. Education (Section 16-18)

The RPWD Act mandates that children with disabilities have access to free education in an inclusive environment. Key provisions include:

- **Free education until the age of 18** for PwDs.
- Ensuring that schools are **inclusive** and provide the necessary support for students with disabilities, including special educators, accessibility tools, and physical infrastructure like ramps and elevators.

9. Penalties for Violation (Section 92)

The RPWD Act includes provisions for penalties for individuals or organizations found guilty of discriminating against persons with disabilities. Violations can lead to fines and imprisonment, particularly if discrimination is found in areas such as education, employment, and access to public spaces.

10. Central and State Governments' Responsibility

The Act places the responsibility on both the **Central and State Governments** to create an environment that enables the full participation of PwDs in all areas of life. This includes:

- **Policy formation and implementation**
- Providing **financial resources** for schemes aimed at improving the quality of life for PwDs
- Ensuring that public institutions, such as schools and hospitals, are accessible to PwDs

Challenges in Implementation

Despite its comprehensive nature, the RPWD Act faces several challenges in terms of its implementation:

- **Awareness and Advocacy:** Many employers and public institutions are still unaware of their obligations under the Act.
- **Accessibility Barriers:** Many physical and digital infrastructures continue to be inaccessible to PwDs, particularly in rural areas.
- **Employment Gaps:** Though the Act mandates reservations in government employment, PwDs continue to face significant barriers in gaining and retaining jobs, especially in the private sector.
- **Implementation of Reservations:** While the law mandates job reservations, there are instances where these provisions are not fully enforced or where PwDs are not provided with the reasonable accommodations necessary for their success in the workplace.

• The **Rights of Persons with Disabilities Act, 2016** marks a significant transformation in India's approach to recognizing and addressing the rights of persons with disabilities. By establishing a legal framework that champions the dignity, equality, and rights of PwDs, the Act opens the door to greater inclusion in society. However, for the Act to be fully effective, it is crucial that both the government and the private sector implement inclusive practices and eliminate barriers that hinder PwDs from fully participating in all areas of life. Achieving this requires heightened awareness, strict enforcement of laws, and the active involvement of all stakeholders.⁴

⁴ The **Rights of Persons with Disabilities Act, 2016 (RPWD Act)**, No. 49 of 2016, Acts of Parliament, India, section 20 (2016)

Human Rights Violations of Persons with Disabilities at the Workplace

Despite the legal safeguards established by the **Rights of Persons with Disabilities Act, 2016 (RPWD Act)** and other relevant laws, persons with disabilities (PwDs) continue to experience widespread human rights violations in the workplace. These violations often result from systemic discrimination, weak enforcement of laws, societal prejudices, and the absence of effective mechanisms to ensure full inclusion and equal opportunities for PwDs in professional environments. Human rights violations against PwDs in the workplace can manifest in various forms, including direct discrimination, harassment, and the lack of accessible facilities or reasonable accommodations. This section delves into the different types of human rights violations faced by PwDs in the workplace and examines their legal consequences.⁵

Types of Human Rights Violations at the Workplace

1. Discrimination in Hiring and Employment Opportunities Discrimination during the hiring process remains one of the most prevalent forms of bias against persons with disabilities (PwDs). Despite legal mandates promoting equal opportunities, PwDs are often denied employment based on assumptions about their abilities. Employers may view them as less competent or capable of performing certain tasks, leading to:

- **Exclusion from job opportunities:** PwDs may be outright rejected during recruitment, either due to prejudice or a failure to consider the need for reasonable accommodations.
- **Underrepresentation:** PwDs are often underrepresented in various industries, especially in senior or managerial positions, reflecting a broader issue of systemic exclusion.

Under Section 34 of the RPWD Act, non-discriminatory hiring practices and equal opportunities for PwDs are mandated. However, discrimination remains a significant barrier, particularly in the private sector, where awareness of legal protections for PwDs is often lacking.

2. Harassment and Bullying

PwDs frequently endure harassment and bullying at the workplace, which can be both physical and psychological. Forms of such mistreatment include:

- Verbal abuse based on disability, such as name-calling, mocking, or belittling PwDs.
- Social exclusion, where PwDs are left out of work-related social activities, meetings, or decision-making processes.
- Hostile work environments, where PwDs find it difficult to perform their tasks comfortably or excel in their roles.

Harassment, particularly bullying, can result in mental distress, reduced job satisfaction, and, in some cases, mental health deterioration. The absence of clear grievance redress mechanisms in many organizations worsens this issue. Although the RPWD Act prohibits such discrimination and harassment (Section 34), many employers fail to implement effective anti-harassment policies or provide adequate support for PwDs who experience workplace bullying.

3. Lack of Reasonable Accommodation

The RPWD Act mandates that employers provide reasonable accommodations to help PwDs perform their jobs effectively. However, many workplaces fail to comply with this provision, resulting in rights violations. Examples include:

- **Inaccessible office infrastructure:** Offices may lack ramps, elevators, or accessible restrooms, preventing PwDs from navigating the workplace.
- **Inadequate assistive technologies:** PwDs may not have access to essential devices such as screen readers for visually impaired employees or specialized keyboards for those with motor disabilities.
- **Rigid work schedules:** PwDs with chronic illnesses or mental health conditions may require flexible working hours, but employers may be unwilling to accommodate these needs.

Failure to provide reasonable accommodations not only hinders productivity and job satisfaction but also leads to high turnover rates. This violation impedes PwDs' ability to engage meaningfully in the workforce.

4. Inaccessible Information and Communication

A lack of accessible information and communication in the workplace constitutes another common human rights violation. This includes:

- **Inaccessible digital platforms:** Websites and internal company portals may not be designed with accessibility in mind, making it difficult for PwDs to access vital work-related information.

⁵ **United Nations**, Convention on the Rights of Persons with Disabilities, **Art. 27** (2006)

- **Absence of sign language interpreters or captions:** Employees with hearing impairments may not have access to sign language interpreters or captions during meetings, training sessions, or presentations.
- **Lack of Braille materials or screen readers:** Visually impaired employees may not have access to work materials in Braille or software that converts text to speech.

Access to information is a fundamental human right, and failing to ensure accessibility in communication denies PwDs their right to fully participate in the workplace. Section 40 of the RPWD Act mandates that employers provide accessible facilities and information technology to foster an inclusive environment.

5. Exclusion from Career Advancement and Promotion

PwDs often encounter obstacles to career advancement due to biases and systemic barriers within organizations. These barriers include:

- Limited career growth opportunities due to assumptions that PwDs are incapable of taking on greater responsibility.
- Ambiguous promotion policies that fail to account for the achievements and capabilities of PwDs.
- Restricted access to training programs or leadership development opportunities that could aid PwDs in advancing their careers.

As a result, PwDs often experience stagnation in their careers, affecting their professional growth and long-term prospects. These barriers violate the principles of equality and non-discrimination enshrined in the RPWD Act and prevent PwDs from realizing their full potential in the workplace.

6. Failure to Provide Equal Pay for Equal Work

While the Equal Remuneration Act, 1976 mandates equal pay for equal work, PwDs often face wage disparities despite performing similar tasks to their non-disabled colleagues. The causes of this pay inequality include:

- **Undervaluation of their work:** PwDs' contributions may be undervalued due to societal biases that perceive their work as less valuable.
- **Lack of job role adjustments:** Even though PwDs may perform tasks as effectively as their colleagues, the absence of necessary adjustments or accommodations may result in wage disparities or unequal job responsibilities.

This failure to provide equal pay for equal work undermines PwDs' economic independence and perpetuates cycles of poverty and exclusion.⁶

Legal Protections and Remedies

The **RPWD Act, 2016** includes various provisions designed to protect the rights of persons with disabilities (PwDs) in the workplace. However, the implementation of these protections remains inconsistent. Key measures outlined in the Act to enforce these rights include:

- **Grievance Redressal Mechanisms:** Employers are obligated to establish internal grievance procedures, allowing PwDs to report instances of discrimination, harassment, or failure to provide reasonable accommodations.
- **National and State Commissions for PwDs:** These commissions are tasked with overseeing the enforcement of disability laws and addressing any violations that arise.
- **Penalties for Violation:** The RPWD Act imposes penalties on individuals or organizations found guilty of discrimination against PwDs, which may include fines or imprisonment.

Despite these provisions, many PwDs are either unaware of these mechanisms or hesitant to report violations due to concerns about retaliation or stigma.

Although the RPWD Act of 2016 offers comprehensive legal protections, persons with disabilities continue to experience significant human rights violations in the workplace. These violations include discrimination during hiring, harassment, failure to provide reasonable accommodations, and unequal pay. Overcoming these challenges requires not only stricter enforcement of existing laws but also a shift in societal attitudes towards disability, alongside better awareness and training for employers to foster truly inclusive work environments. By ensuring PwDs have equal access to opportunities and protections, society can create a more inclusive and equitable workplace for all.

Despite the protections guaranteed by the **RPWD Act** and other relevant laws, human rights violations against PwDs in the workplace remain widespread. These violations often result from systemic discrimination, insufficient law enforcement, societal prejudices, and the absence of effective mechanisms to guarantee full inclusion and equal opportunities. Human rights violations in the workplace can take various forms, including

⁶ **Rights of Persons with Disabilities Act, 2016 (RPWD Act)**, No. 49 of 2016, Acts of Parliament, India, section 34, section 47, and section 20 (2016)

direct discrimination, harassment, and the lack of accessible facilities and reasonable accommodations. This section examines the different types of human rights violations faced by PwDs at work and their legal implications.⁷

Types of Human Rights Violations at the Workplace

1. Discrimination in Hiring and Employment Opportunities

Discrimination during the hiring process is one of the most prevalent forms of bias faced by persons with disabilities (PwDs). Despite legal mandates for equal opportunities, PwDs are often denied employment based on assumptions about their abilities. Employers may wrongly perceive them as less competent or unable to perform specific roles, which leads to:

- **Exclusion from job opportunities:** PwDs may be outright rejected during recruitment due to bias or a failure to consider the need for reasonable accommodations.
- **Underrepresentation:** PwDs are often underrepresented across many sectors, especially in higher-level or managerial roles, reflecting systemic exclusion.

Under Section 34 of the RPWD Act, non-discriminatory hiring practices and equal opportunities for PwDs are mandated. However, discrimination remains a significant obstacle, particularly in the private sector, where there is often a lack of awareness about the legal rights of PwDs.

2. Harassment and Bullying

PwDs often endure harassment and bullying in the workplace, which can manifest in both physical and psychological forms. This includes:

- Verbal abuse related to disability status, such as name-calling, mocking, or belittling PwDs.
- Social exclusion, where PwDs are left out of work-related social events, meetings, or decision-making processes.
- Hostile work environment, making it difficult for PwDs to perform their tasks comfortably or succeed in their roles.

Such harassment, particularly bullying, can cause mental distress, diminish job satisfaction, and, in some cases, lead to mental health deterioration. The absence of effective grievance redressal mechanisms in many organizations exacerbates the issue.

While Section 34 of the RPWD Act prohibits both discrimination and harassment, many employers fail to enforce anti-harassment policies or provide sufficient support to PwDs who experience bullying at work.

3. Lack of Reasonable Accommodation

The RPWD Act mandates that employers provide reasonable accommodations to PwDs to help them perform their jobs effectively. However, many workplaces fail to comply, which leads to violations of PwDs' rights.

Examples include:

- **Inaccessible office infrastructure:** Offices may lack ramps, elevators, or accessible restrooms, preventing PwDs from navigating the workplace effectively.
- **Inadequate assistive technologies:** PwDs may not have access to necessary assistive devices, such as screen readers for visually impaired employees or specialized keyboards for those with motor disabilities.
- **Rigid work schedules:** PwDs with chronic illnesses or mental health conditions may need flexible working hours, but employers are often unwilling to accommodate these needs.

The failure to provide reasonable accommodations impairs PwDs' productivity, job satisfaction, and overall well-being, leading to high turnover rates and reduced workforce participation.

4. Inaccessible Information and Communication

A prevalent human rights violation is the lack of accessible information and communication in the workplace, which can include:

- **Inaccessible digital platforms:** Websites and internal company portals that are not designed with accessibility in mind, making it difficult for PwDs to access essential work-related information.
- **Lack of sign language interpreters or captioning:** Employees with hearing impairments may not be provided with sign language interpreters or captions during meetings, training sessions, or presentations.
- **Lack of Braille materials or screen readers:** Visually impaired employees may not have access to work materials in Braille or software that converts text to speech.

⁷ Rights of Persons with Disabilities Act, 2016 (RPWD Act), No. 49 of 2016, Acts of Parliament, **India**, **section 34**, **section 47**, and **section 20**

Access to information is a fundamental right, and failure to ensure accessibility in communication directly infringes upon PwDs' ability to participate fully in the workplace. Section 40 of the RPWD Act mandates that employers ensure accessible facilities and information technologies to create an inclusive environment.

5. Exclusion from Career Advancement and Promotion

PwDs often face obstacles in advancing their careers due to both prejudice and systemic barriers within organizations. These include:

- Lack of career growth opportunities due to bias or assumptions that PwDs are incapable of handling greater responsibilities.
- Unclear promotion policies that fail to consider the achievements and abilities of PwDs.
- Limited access to training programs or leadership development initiatives that could help PwDs progress in their careers.

As a result, many PwDs experience career stagnation, which negatively affects their professional growth and long-term prospects. These barriers violate the principles of equality and non-discrimination set forth in the RPWD Act, denying PwDs the opportunity to reach their full potential.

6. Failure to Provide Equal Pay for Equal Work

Though the Equal Remuneration Act, 1976 ensures equal pay for equal work, PwDs still face disparities in compensation for performing the same tasks as their non-disabled colleagues. Contributing factors include:

- **Undervaluation of their work:** Societal biases may lead to the perception that PwDs' contributions are less valuable, resulting in pay disparities.
- **Lack of reasonable adjustments to job roles:** Even if PwDs perform equally well as their peers, the absence of necessary accommodations may result in unequal pay or job responsibilities.

This violation of the right to equal remuneration harms PwDs' economic independence and perpetuates the cycle of poverty and exclusion.⁸

Legal Protections and Remedies

The **RPWD Act, 2016** outlines various provisions to safeguard the rights of persons with disabilities (PwDs) in the workplace. Despite these legal protections, the effective implementation of these laws remains inconsistent. Some of the key measures designed to enforce these rights include:

- **Grievance Redressal Mechanisms:** Employers are mandated to set up internal grievance redressal systems, enabling PwDs to report instances of discrimination, harassment, or failure to provide reasonable accommodations.
- **National and State Commissions for PwDs:** These commissions are tasked with overseeing the enforcement of disability laws and ensuring that violations are addressed appropriately.
- **Penalties for Violations:** The RPWD Act stipulates penalties for individuals or organizations found guilty of discriminating against PwDs, which may include fines or imprisonment.

However, many PwDs are either unaware of these available mechanisms or hesitate to report violations due to fear of retaliation or social stigma. Despite the robust legal protections established by the **RPWD Act of 2016**, persons with disabilities (PwDs) continue to experience significant human rights violations in the workplace. These violations encompass discrimination in hiring, harassment, failure to provide reasonable accommodations, and unequal pay. Overcoming these challenges necessitates not only more rigorous enforcement of existing laws but also a change in societal attitudes toward disability. Additionally, greater awareness and training for employers are essential to fostering truly inclusive work environments. By guaranteeing PwDs equal access to opportunities and protections, society can build a more inclusive and equitable workplace for all.

Study of Service Rules and Their Alignment with Disability Laws in India

In India, persons with disabilities (PwDs) face numerous obstacles in the workplace, despite the existence of laws designed to protect their rights and promote equality. Although laws like the **Rights of Persons with Disabilities Act, 2016** (RPWD Act) provide a strong legal foundation, their effective implementation often depends on how these laws are incorporated into the service rules of organizations, both public and private. Aligning service rules with disability laws is essential to ensuring that PwDs are treated fairly and given the necessary support to thrive in the workplace.

Service rules typically outline employees' rights and responsibilities, covering areas such as recruitment, promotion, leave, accommodation, and grievance redress. These rules play a key role in translating national

⁸ Disability Rights and Remedies in Indian Workplaces: A Legal Perspective", **Indian Journal of Disability Law**, Vol. 14, No. 2 (2019), pp. 142-156

disability legislation into practical actions within organizations. This study explores how service rules in India either align with or fail to align with disability laws, focusing on critical aspects such as recruitment, reasonable accommodation, non-discrimination, and grievance redress.⁹

Key Areas of Alignment between Service Rules and Disability Laws

1. Recruitment and Equal Opportunity

The RPWD Act, 2016 ensures that persons with disabilities (PwDs) are not discriminated against during recruitment. It mandates a 4% reservation of government job vacancies for PwDs, with specific quotas for different disability types. To align with these provisions, the service rules of organizations, particularly in the public sector, must ensure fair and inclusive recruitment practices.

- **Public Sector Service Rules:** In government departments and public sector enterprises, service rules typically provide for reservation of positions for PwDs, in accordance with the RPWD Act. These rules define the categories of disabilities eligible for reservation and the percentage of vacancies allocated for each category.
- **Private Sector Service Rules:** While there is no mandatory reservation for PwDs in private sector employment, the RPWD Act encourages private companies to offer equal opportunities and make reasonable adjustments to facilitate PwD employment. Many private organizations include non-discrimination clauses in their diversity policies, but the enforcement of these policies often remains inconsistent.

2. Reasonable Accommodation

A key provision of the RPWD Act is the requirement for reasonable accommodations for employees with disabilities. Section 20 mandates that employers make necessary adjustments in the workplace to accommodate PwDs, such as modifying workstations, adjusting work hours, or providing assistive devices.

- **Service Rules and Reasonable Accommodation:** Many public sector organizations have incorporated the concept of reasonable accommodation into their service rules. For example, civil service rules may provide for modifications in job roles, flexible work hours, or specialized equipment to support PwDs in performing their duties.
- **Private Sector Challenges:** Although private companies are also required to offer reasonable accommodations, the lack of clear guidelines in their service rules often leads to reluctance or inconsistent application. Many organizations fail to recognize that providing reasonable accommodations is not only a legal requirement but also a crucial part of fostering an inclusive workplace.

Common accommodations to be addressed in service rules include:

- Modifications to physical workspaces (ramps, accessible restrooms, elevators)
- Provision of assistive technologies (screen readers, specialized keyboards)
- Flexible work hours or telecommuting options
- Adjustments in job duties or roles, when necessary

3. Non-Discrimination and Equal Treatment

The RPWD Act, especially in Sections 34 and 47, explicitly prohibits discrimination against PwDs in the workplace, including in recruitment, job assignments, promotions, and benefits.

- **Public Sector Service Rules:** Government and public sector organizations typically have robust non-discrimination clauses in their service rules, reflecting the legal mandate. These rules often include specific provisions to prevent discrimination in promotion, training, and performance evaluations. Additionally, many public sector organizations offer disability awareness programs to train employees and management on inclusion.
- **Private Sector Service Rules:** While many private sector organizations have non-discrimination clauses in their service rules, enforcement tends to be weaker. Resistance to modifying workspaces or practices to accommodate PwDs can result in indirect discrimination. Disability inclusion in private companies is often seen as an external policy issue rather than an integral part of organizational culture.

4. Grievance Redressal and Dispute Resolution

The RPWD Act mandates the establishment of grievance redressal mechanisms to ensure that PwDs have access to appropriate channels for reporting discrimination, harassment, or failure to provide reasonable accommodation.

- **Public Sector Service Rules:** Many public sector organizations have established grievance redressal mechanisms to handle complaints related to disability discrimination. Service rules typically outline clear procedures for filing grievances, including contact points, timelines for resolution, and the involvement of a designated officer responsible for addressing disability-related issues.
- **Private Sector Service Rules:** In the private sector, the availability of grievance redressal mechanisms for PwDs varies significantly between organizations. While larger corporations with formal HR policies may

⁹ Rights of Persons with Disabilities Act, 2016 (RPWD Act), No. 49 of 2016, sections 34-40

have procedures to handle disability-related complaints, smaller firms may lack the infrastructure or awareness to address these issues effectively.

5. Training and Sensitization Programs

The RPWD Act stresses the importance of training and sensitization programs to raise awareness about disability rights and foster a culture of inclusion in the workplace. Service rules should mandate mandatory training programs for both employees and management, covering topics such as:

- Disability awareness
- The importance of reasonable accommodation
- Addressing unconscious bias and stereotypes
- Inclusive language and behavior

Public sector organizations generally have well-structured disability inclusion training programs due to stronger legal and regulatory frameworks. However, the private sector is still in the early stages of implementing these programs, and their inclusion in service rules can be inconsistent.¹⁰

Gaps in Alignment and Implementation Challenges

Although there is significant alignment between the RPWD Act and the service rules in many organizations, substantial gaps remain in their implementation. These challenges include:

- **Lack of Awareness:** Many employers and HR personnel, especially in the private sector, lack awareness and understanding of disability laws and their implications.
- **Inadequate Infrastructure:** Many workplaces, particularly smaller organizations or those in rural areas, lack the infrastructure needed to provide reasonable accommodations.
- **Weak Enforcement:** The enforcement of laws and service rules is often insufficient, primarily due to inadequate monitoring mechanisms.
- **Cultural and Attitudinal Barriers:** Unconscious biases or stereotypes about PwDs among employers and colleagues can lead to exclusion, harassment, or the denial of necessary accommodations.

Recommendations for Strengthening Alignment

1. **Standardization of Service Rules:** The government should provide clearer guidelines for private sector service rules, ensuring better compliance with disability laws and standardized practices in recruitment, accommodation, and non-discrimination.
2. **Enhanced Awareness and Training:** Employers should be required to implement regular training programs for employees and managers on disability rights, inclusion, and the significance of reasonable accommodations.
3. **Monitoring and Accountability:** Stronger monitoring and evaluation systems must be put in place to ensure both public and private sector organizations adhere to the RPWD Act, especially regarding grievance redressal and accommodations.
4. **Incentives for the Private Sector:** The government can offer financial incentives or recognition (e.g., tax breaks or awards) to private companies that demonstrate exceptional commitment to disability inclusion.
5. **Inclusive Recruitment Practices:** Organizations should adopt inclusive recruitment practices that actively promote the hiring of PwDs and create clear paths for career development for disabled employees.

The alignment of service rules with disability laws in India is crucial for safeguarding the rights of PwDs in the workplace. While some progress has been made, significant gaps still exist in awareness, implementation, and enforcement. Strengthening the alignment between service rules and disability laws can help organizations create more inclusive, equitable, and accessible workplaces, allowing PwDs to thrive professionally.

Conclusion

The issue of human rights violations against persons with disabilities (PwDs) in the workplace remains a significant challenge in India, despite the progressive legal framework established by the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, and more recently, the Rights of Persons with Disabilities Act, 2016 (RPWD Act). These laws have laid the foundation for protecting the rights of PwDs, advocating for equal opportunities, non-discrimination, and reasonable accommodation. However, as this research demonstrates, the gap between legal provisions and actual practice continues to impede the effective implementation of these laws in workplaces across the country. While the RPWD Act of 2016 has made notable progress in expanding disability rights and enforcing non-discrimination

¹⁰ **Government of India**, "Model Guidelines for the Inclusion of Persons with Disabilities in Service Rules", (2016)

in employment, the findings reveal ongoing human rights violations in the workplace. These violations include discrimination in recruitment, harassment, failure to provide reasonable accommodations, lack of equal promotion opportunities, and inadequate grievance redressal mechanisms. These barriers not only limit the potential of PwDs to contribute to the workforce but also perpetuate their exclusion from broader societal participation.

The study of service rules in both public and private sectors reveals that while many public organizations have made efforts to align their policies with disability laws, private sector companies often fall short in providing necessary accommodations or implementing inclusive practices. In many cases, a lack of awareness, poor accessibility, and institutional inertia prevent PwDs from fully benefiting from the legal protections afforded to them. Furthermore, the study highlights significant challenges in implementation, such as weak enforcement of existing laws, cultural biases, and attitudinal barriers in the workplace. These issues are compounded by the absence of comprehensive monitoring mechanisms and the limited role of grievance redressal systems, which often discourage PwDs from reporting discrimination or seeking help.

In conclusion, the violation of the human rights of PwDs in the workplace in India is a complex issue that requires a concerted effort from all stakeholders—government bodies, employers, civil society, and the PwD community. Bridging the gap between legal provisions and practice requires strengthening implementation strategies, raising awareness, and fostering a culture of inclusion within workplaces. For true inclusion to be achieved, service rules must go beyond legal formalities—they must be effectively enforced and translated into concrete actions. Employers, particularly in the private sector, need to actively work toward creating an inclusive work environment with clear policies on reasonable accommodation, non-discrimination, and grievance redressal. The government must continue to offer supportive incentives, training, and monitoring frameworks to ensure compliance with disability laws.

Ultimately, only through a comprehensive approach—combining legislative action, organizational accountability, and social awareness—can India move toward a truly inclusive and equitable workplace for persons with disabilities. The vision of a just society, where all individuals, regardless of ability, can participate equally in the workforce, will be realized only when legal frameworks, service rules, and societal attitudes align to promote the dignity, rights, and empowerment of PwDs in all aspects of life.

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