

Constitutional Court Ruling No. 18-19/2567 (2024)

Central Labour Court

Applicant

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Respondent

Constitution, section 26 and section 40

Empowerment of Persons with Disabilities Act, B.E. 2550 (2007), section 33, section 34 paragraph one and section 35

Section 33 of the Empowerment of Persons with Disabilities Act, B.E. 2550 (2007), provided that state agencies, employers, or owners of business establishments shall employ persons with disabilities.

Section 34 prescribed that employers or owners of business establishments who did not recruit persons with disabilities in the required proportion shall contribute to the Fund for Empowerment of Persons with Disabilities.

Section 35 stipulated that state agencies that did not desire to recruit persons with disabilities, or employers or owners of business establishments who neither desired to employ persons with disabilities nor contributed to the Fund, may instead grant concessions or provide other forms of assistance to persons with disabilities or their caregivers.

Section 33 and section 34 paragraph one were intended to ensure that persons with disabilities had full access to employment opportunities or could live their effective life in society. These provisions were consistent with the principle of proportionality, did not violate the rule of law, did not impose undue burden or excessively restrict individual rights and liberties, and did not infringe upon human dignity. They applied equally and generally to state agencies, employers or owners of business establishments. These provisions were not contrary to or inconsistent with section 26 of the Constitution.

Furthermore, section 33, section 34 paragraph one and section 35 did not impose an undue burden on business operations, nor did they infringe upon the liberty to engage in an occupation of employers or owners of business establishments. Rather, they constituted regulation of occupational engagement only to the extent necessary and for the public interest, as permitted by section 40 paragraph two of the Constitution. Therefore, these three sections were not contrary to or inconsistent with section 40 of the Constitution.
