2025 INSC 1083

REPORTABLE

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. /2025
(@ SLP (C) No.20866/2019)

RAILWAY PROTECTION FORCE & ORS. …APPELLANT(S)

VERSUS

PREM CHAND KUMAR & ORS. RESPONDENT(S)

With

CIVIL APPEAL NO. /2025
(@ SLP (C) No.28469/2019)

J U D G M E N T

Joymalya Bagchi, J.

SLP (C) No. 20866/2019

1. Leave granted.

2. Appellants have assailed judgement and order[1] dated 29.03.2019 whereby the High Court directed the respondents-writ petitioners, who had applied in reserved category and availed relaxation in age and/or physical measurements to

[1] In Writ Petition (C) No. 1350 of 2017.

participate in the recruitment process and had obtained marks higher than the last selected candidate in the unreserved category, to be appointed in the unreserved category.

3. Shorn of details, factual matrix giving rise to the appeal is as follows :–

3.1 On 06.12.2013, Employment Notice No. 1/2013 was issued by 2nd Appellant-Railway Board inviting applications for filling up 659 posts in seven different categories, namely, Constable (Water Carrier), Constable (Safaiwala), Constable (Washerman), Constable (Barber), Constable (Mali), Constable (Tailor) and Constable (Cobbler) in the ancillary services of the Railway Protection Force, including the Railway Protection Special Force. Subsequently, the number of vacancies advertised were enhanced to 763.

3.2 Clause 4(c) of the Employment Notification provided that the candidate must be above 18 years and not more than 25 years to be eligible to apply.

3.3 Upper age relaxation up to 5 years and 3 years was given for SC/ST and OBC candidates respectively[2]. Clause 4(d)(v) provided as follows:-

> "No age relaxation is allowed to SC/ST/OBC candidates applying against unreserved vacancies."

3.4 Clause 4(e) prescribed the physical measurements of an eligible candidate with regard to height and chest (expanded and unexpanded) for male and female candidates separately. Concessions with regard to physical measurements for SC/ST and OBC candidates were also prescribed.

3.5 Clause 5 of the Employment Notification laid down the selection process stating eligible candidates in all categories shall be subjected to a written examination, Physical Efficiency Test (PET), Physical Measurement Test (PMT) and trade test for recruitment.

3.6 In the written examination, cut-off for general candidates was 35 percent and cut-off for SC/ST candidates was 30 percent. If successful in the written examination, the candidate would be called for PET comprising 1600/800

[2] Clause 4(d) of the Employment Notice No. 1/2013.

metres run, high jump and long jump. Though no marks were to be awarded, the candidate must qualify in all the categories.

3.7 Candidates who succeeded in the written examination, PET and PMT were to appear in a trade test specific to each category where such candidate was to secure at least 50 percent marks. The number of candidates who were to be called for the trade test was not to exceed three times the prescribed vacancy.

3.8 Certain candidates in the State of Assam filed WP (C) No. 2120/2016 (*Japhed Dhan and others vs. Union of India*) claiming that they had been wrongly disqualified in the PMT and PET. Consequent upon an interim order of the Guwahati High Court dated 01.04.2016, 74 vacancies of the North Frontier Railway in Employment Notice No.1/2013 were excluded such that the vacancies that could be filled up was brought down to 689.

3.9 Pursuant to the aforesaid selection process 400 candidates were empanelled in different categories. Respondents-writ petitioners were not empanelled as either they had not qualified trade test for their respective trade(s) (that is, did

not score minimum 50 percent in trade test) or had not qualified the cut-off for their respective trade(s) in their reserved category or there was no vacancy in their trade.

4. As a number of vacancies in various categories remained unfilled, respondents-writ petitioners approached the High Court praying for a mandamus to appoint them against the unfilled posts.

5. During pendency of the writ petition, some of the writ petitioners (proforma respondents herein) were selected from supplementary list in place of empanelled candidates who were medically unfit or did not report for medical exam/training etc.

6. After hearing the parties, High Court framed the following issue:

> "24. The issue that arises is whether the Petitioners who secured more than the UR candidates in the written test and trade test can be considered against the UR vacancies?"

7. Stance of the 1st Appellant-RPF before High Court was that though some of the respondents-writ petitioners belonging to SC/ST category who availed relaxation of age and/or physical measurements had secured higher marks in the written examination than the cut-off in unreserved category relatable to their respective trades, they could not be treated in unreserved category as they had availed of such relaxations.

8. In support of such plea, appellants referred to Standing Order No.85 dt. 05.03.2009[3]. Para 14(f) runs as follows:-

> "Candidates from SC, ST and OBC categories selected purely on merit without availing any relaxation in age, physical measurements and Qualifying Marks in written test shall not be counted against vacancies reserved for such categories."

9. In reply, the respondents-writ petitioners contended the recruitment of staff in ancillary services was governed by a different standing order, namely Standing Order No.78 dt. 21.02.2008[4], which permitted migration of reserved candidates scoring higher in the merit test to unreserved category. Para 14(b) of the said Standing Order reads as follows:-

> "Candidates from SC, ST and OBC categories who come into the general merit list by securing higher marks shall be selected against unreserved vacancies. If more than one candidate has obtained the same mark, they should be arranged in the order of their dates of birth. Those seniors in age will be placed above those junior in age. In case the dates of birth also happen to be the same they may be placed alphabetically."

10. Holding that the latter standing order was applicable, the High Court allowed the Writ Petition and directed appointment of respondents-writ petitioners to the vacant posts.

---

[3] No. 2009-Sec(E)/RC-3/1, New Delhi.
[4] No. 2008-Sec(E)/RC-3/18, New Delhi.

11. Ms. Saumya Tandon, learned counsel for the appellants contends the employment notification must be read in conjunction with Revised Directive No.29[5] dated 06.12.2013 which provides that in partial modification of Standing Order No. 78 and in supersession of earlier Directive No. 29[6], the Standing Order No. 85 applicable to Constables shall also be applicable to recruitment in ancillary posts i.e. the present recruitment process.

12. On the other hand, Mr. A. Mariarputham, learned senior counsel submits that the Revised Directive No.29 does not provide that Standing Order No.78 is wholly superseded by Standing Order No.85 and Para 14(b) of the said standing order would survive and permit the reserved candidates, though availing concessions, to be selected against unreserved posts as they scored higher marks than cut-off marks for such unreserved posts. For better appreciation, Revised Directive No.29 is set out as under:–

"GOVERNMENT OF INDIA MINISTRY OF
RAILWAYS (RAILWAY BOARD)
No.2013/Sec (E)/RC-3/142 New Delhi,
dated 06.12.2013
DIRECTIVE-29 (REVISED)

[5] No. 2013/Sec (E)/RC-3/142, New Delhi.
[6] Dated 27.09.2013.

Sub: Procedure regarding recruitment of Constable (Ancillary) in RPF/RPSF.

Consequent upon placement of all posts of ancillary staff of RPF/RPSF in PB1 with Grade Pay Rs.2000/- vide Ministry of Railway's letter No. PC-VI/2008/1/5/8 dated 03.07.2013 (RBE No.62/2013) and in partial modification of Directive No.24, issued vide letter No. 2008/Sec (Spl.)/6/16, dt.09.04.2008 and Standing Order No. 78, issued vide letter No. 2008-Sec(E)RC-3/18, dt. 21.02.2008 as far as applicable to the recruitment of Constable, Ancillary staff viz. Constable (Water Carrier), Constable (Safaiwala), Constable (Barber), Constable (Washerman), Constable (Mali), Constable (Tailor) and Constable (Cobbler) of RPF/RPSF and in supersession of Directive-29 dt. 27.09.2013 & its modification dt. 12.11.2013, DG/RPF hereby issues the following Directive.

For the above said recruitment in RPF/RPSF, procedure laid down in Standing Order-85, issued vide letter No.2009/Sec (E)/RC-3/1 dated 05.03.2009, and its modifications issued vide letter No.2009/Sec (E)/RC-311, dated 21.01.2011, 11.02.2011 and 01.12.2011 for recruitment of Constable, shall be applicable with following changes.

1. Educational Qualification: Matriculation or equivalent from a recognized Board/University. Educational certificate other than State Board/Central Board should be accompanied with Govt. of India notification declaring that such qualification is equivalent to Matriculation /10th Class pass for service under Central Govt or ITI.
2. TRADE TEST (50 MARKS) shall be conducted in place of viva-voce: 3 (three) times the number of candidates who qualify the written examination, PET and PMT will be put through a Trade Test of 50 marks. The Trade Test is purely qualifying in nature and Candidates will have to secure minimum 50% marks to qualify the Trade Test. Marks obtained in Trade Test will not be added to the written examination marks for preparation of final selection of the candidates. The candidate shall bring their own tools/material required for their Trade Test. The trade test for different trades may consist of:

   BARBER: Handling of tools, Hair Cutting, Shaving, etc.

   MALI: Plantations and making grafts, Maintenance of plants, Knowledge of seeds and their sowing season,

Knowledge and use of fertilizers and indigenous manures, etc.
SAFAIWALA: Sweeping, dusting, mopping, cleaning of toilets, Cleaning of Bathrooms, etc.
WASHER MAN: Manual and mechanical washing of clothes, dry-cleaning ironing and maintenance of all types of uniform, etc.
WATER CARRIER: Washing of vessels, Kneading of Atta for making chapattis/ puns for 100 staff, Cutting of vegetables etc., Cooking of Chapati & Rice for 100 staff, Cooking of vegetable/Dal/Samber etc. for 100 staff, Cooking of Meat/Fish/Egg/Kheer, Idali Badakhana etc. TAILOR: Taking measurement and stitching of Winter and summer uniform of the force personnel. Knowledge of different type of materials i.e. fabrics/thread etc. used in trade work. Capability to carry out minor repairs, trouble-shooting Maintenance of sewing machine, and ability to recognize tools/machines used in ·cutting, tailoring, and their correct identification.
COBBLER: Knowledge of stitching & repairing of shoes, ability to identify/recognize tools used in the trade. Ability to identify and recognize different types of leathers and material used in the trade, and ability to recognize nails/threads used in sewing shoes. One should have knowledge of leather sewing machine & ability to carry out minor repairs.

3. Only one application shall be submitted for one or more than one trade. However, preference should be given in the application forms by the candidates as per their choice.
4. DG/RPF may relax any of the above instructions in Special Cases on the recommendation of the concerned CSC." (**emphasis supplied**)

13. The Revised Directive No.29 unequivocally shows that in partial modification of Standing Order No.78 the procedure laid down in Standing Order No.85 dated 05.03.2009 for recruitment of constables shall be applicable with certain changes.

14. It is argued that the Revised Directive does not wholly supersede Standing Order No.78 and partially modifies the said Order with reference to Standing Order No.85 applicable for recruitment to the post of Constable and above. As such, para 14(b) of the Standing Order No. 78 which permits migration of reserved candidates to the general merit list remains unaltered.

15. The words 'partial modification' used in the Revised Directive must be contextually appreciated to mean that the Standing Order No. 78 prescribing the recruitment process to post of ancillary services shall remain unaltered to the extent it is not in conflict with the procedure prescribed in Standing Order No. 85 applicable to recruitment of Constables.

16. Para 14(f) of the Standing Order No. 85 states only those candidates in reserved category who have not availed relaxation in age, physical measurements and qualifying marks in written test may be appointed in unreserved category and thereby bars the reserved candidates who have availed such concession from migration to unreserved category. This para runs counter to Para 14(b) of Standing Order No. 78 which permits such migration. A partial modification of the

Standing Order No. 78 by Standing Order No. 85 would naturally have an overriding effect and Para 14(f) of the latter Standing Order will prevail over Para 14(b) of former Standing Order, putting an embargo on migration of reserved candidates who have availed relaxation of age and/or physical measurements to fill up unreserved vacancies, even if they have scored higher marks than the cut-off marks prescribed for the unreserved seats.

17. Even otherwise it is relevant to note some of the respondents-writ petitioners had failed to score marks above the cut-off prescribed for the unreserved seats or had failed to qualify in their respective trade tests. The High Court failed to appreciate the aforesaid factual background and mechanically relied on *Jitendra Kumar Singh vs. State of UP & Ors.*[7] to direct the respondents-writ petitioners to be appointed against unreserved seats.

18. In *Union of India & Ors. vs. Sajib Roy*[8] this Court held that *Jitendra Singh* (supra) is inapplicable to cases where the recruitment rules bar migration of reserved candidates availing

[7] (2010) 3 SCC 119.
[8] SLP (C) No. 21392-93 of 2019.

relaxation in age/ fees to be appointed against unreserved vacancies. The Court summarized the principles as follows:

> "32. …Whether a reserved candidate who has availed relaxation in fees/upper age limit to participate in open competition with general candidates may be recruited against unreserved seats would depend on the facts of each case. That is to say, in the event there is no embargo in the recruitment rules/employment notification, such reserved candidates who have scored higher than the last selected unreserved candidate shall be entitled to migrate and be recruited against unreserved seats. However, if an embargo is imposed under relevant recruitment rules, such reserved candidates shall not be permitted to migrate to general category seats."

19. In light of the aforesaid discussion, particularly the bar envisaged in Standing Order No. 85 read with Revised Directive No. 29, we are of the view the High Court erred in directing the respondents-writ petitioners to be selected against the unreserved posts. The impugned judgment and order is set aside. Appeal is allowed.

20. Pending application(s), if any, shall stand disposed of.

SLP (C) No.28469/2019

1. Leave granted.

2. The appellant has assailed judgment and order dated 27.08.2019 in W.P. (C) No.10005/2018 passed by the Delhi High Court.

3. In response to Notification No. 45013/9/2009-Pers.I, dated 06.12.2017, issued by the 1st respondent - Union of India for filling up posts of Assistant Commandant (Executive) in Central Industrial Security Forces (CISF) through Limited Department Competitive Examination, appellant applied as a general category candidate. He was successful in the written examination, physical efficiency test and medical eligibility test conducted by 2nd respondent-UPSC. He appeared in the personality test/interview but was not selected as the minimum cut-off marks in general category was 364, while he had scored 363. One of the seats in the general category was filled by a Scheduled Tribe candidate, i.e., 4th respondent herein, who had scored higher marks (366) than the last selected candidate in general category (364).

4. Contending that the Scheduled Tribe candidate, i.e., 4th respondent had not been selected on same standards as applicable to general candidates as he had availed concessions with regard to height,[9] appellant approached the High Court, praying that the selection list be quashed and he be selected

[9] As per the notification dated 06.12.2017, the minimum height requirement was 165 cm for male candidates belonging to the General and Scheduled Caste categories, and 162.5 cm for Scheduled Tribe candidates. The 4th Respondent's height was recorded as 163 cm.

in the general category. In support of his prayer, he relied on Office Memorandum No. 36011/1/98-Estt. (Res), dated 01.07.1998. Relevant provisions of the memorandum are set out hereinbelow :–

> "2. O.M. dated May 22, 1989 referred to above and the O.M.No.36012/2/96-ESTT (RES) dated July 2,1997 provide that in cases of direct recruitment, the SC/ST/OBC candidates who are selected on their own merit will not be adjusted against reserved vacancies.
>
> 3. In this connection, it is clarified that only such SC/ST/OBC candidate who are selected on the same' standard as applied to general candidates shall not be adjusted against reserved vacancies. In other words, when a relaxed standard is applied in selecting an SC/ ST/ OBC candidates, for example in the age limit, experience qualification, permitted number of chances in written examination, extended zone of consideration larger than what is provided for general category candidate etc., the SC/ST/OBC candidates are to be counted against reserved vacancies. Such candidates would be deemed as unavailable for consideration against unreserved vacancies." (**emphasis supplied**)

5. It was further contended that the said memorandum was again reiterated vide Office Memo No. 43011/4/2018-Estt. (Res), dated 04.04.2018 :-

> "2. As per instructions issued vide this Department's OM No.36012/2/96-Estt. (Res) dated 02.07.1997, in direct recruitments to Central Government jobs and services the reserve category candidates who are selected on the same standard as applied to general candidates will not be adjusted against reserved vacancies. As per instructions issued vide DOP&T OM No.36011/1/98-Estt. (Res) dated 01.07.1998, only when a relaxed standard is applied in selecting a reserved candidates, for example in the age

limit, experience, qualification, permitted number of chances in written examination, etc., such candidates will be counted against reserved vacancies.

3. It has been brought to the notice of this Department by the Hon'ble Parliamentary Committee on Welfare of OBCs that these instructions are not being followed in some cases in direct recruitments to Central Government jobs and services. It is, therefore, reiterated that while making Direct Recruitments, guidelines issued vide this Department's OM No.36012/2/96-Estt. (Res) dated 02.07.1997 and OM No.36011/1/98-Estt.(Res) dated 01.07.1998 may be kept in view by all concerned."

6. 2nd respondent-UPSC opposed the prayer and in its counter affidavit clarified that the office memoranda did not bar reserved candidates who had been permitted to participate in the selection process as per concessions in physical standards i.e. height, weight, chest etc. prescribed for various categories, namely, men and women in general/SC and ST. 2nd respondent clarified as follows :–

"These physical / medical standards as provided in the Examination Rules are notified by the Government (Ministry of Home Affairs) and each candidate declared qualified in the written part of the Examination has to meet with this requirement for qualifying the same. As such, Physical Standard Tests / Physical Efficiency Tests & Medical Standard Tests do not come under the purview of the Commission. However, it is not out of place to point out here that the physical standards (height and chest) of woman candidates are lower than the male candidates for different categories for the aforesaid Examination. But, this cannot be considered that the woman candidates would be availing the relaxed physical standards as compared to the male candidates since this incorrect assumption could lead to the situation that no woman

> candidate of general. category, especially, would be selected as there is no reservation as such for woman candidates in the government Service including the CISF. Furthermore, there will not be any chance for any female candidate to qualify an Examination on her own merit despite the fact that she has not availed any relaxation in terms of age, cut-off marks etc. The similar situation is also applicable to the ST candidates qualifying the Examination on their own merit (taking into account age, cut off marks etc.) with lower physical standards fixed for them. The case of Shri Sitlhou, the S.T. candidate declared qualified against General category, falls in the above category as he has qualified the CISF Examination on his own merit in terms of age and cut-off marks fixed for the aforesaid CISF Examination. Moreover, different parameters of Physical Standards relating to height / weight / chest etc. for male/ female and for different categories of candidates are prescribed keeping in view gender / race of the candidates by the Ministry of Home Affairs." (**emphasis supplied**)

7. Taking into consideration the aforesaid stance, the High Court held the office memo dated 01.07.1998 did not apply to relaxed physical standards like height, weight etc., which would vary depending on gender, geographical location and so on, and dismissed the writ petition. We are in wholesome agreement with such view expressed by the High Court.

8. We are fortified to come to such conclusion as office memo dated 01.07.1998 does not expressly state relaxed concessions in physical measurements availed by a reserved candidate would disentitle the candidate from being considered for

appointment under general category if he has scored higher than the cut-off marks in such category.

9. It may not be out of place to note that the present office memorandum does not expressly refer to relaxation in physical standards unlike Clause 14(f) of the Standing Order No.85 which is applicable to recruitment of Railway Protection Force, dealt by us in *Railway Protection Force & Ors. v. Prem Chand Kumar & Ors.*[10]

10. In *Deepa E.V. v. Union of India & Ors.,*[11] *Niravkumar Dilipbhai Makwana v. Gujarat Public Service Commission & Ors.*[12] and *Government (NCT of Delhi) & Ors. v. Pradeep Kumar & Ors.*[13] this Court did not permit migration in light of the embargo in self-same office memorandum with regard to relaxation of upper age limit, unlike relaxation in physical standards applicable to the present case. Thus, the said cases are clearly distinguishable and do not come to the aid of the appellant.

11. Learned counsel for appellant heavily relies on the expression 'extended zone of consideration larger than what is provided

[10] Special Leave Petition (Civil) No. 20866/2019.
[11] (2017) 12 SCC 680.
[12] (2019) 7 SCC 383.
[13] (2019) 10 SCC 120.

for general category candidates etc.' to contend concessions in physical standards like height, weight etc. are also included. High Court rebutted the said argument, holding as such :–

> "20. At the outset, it requires to be noticed that there are physical standards, like height, weight etc. which are also known as "Enlistment Standards" and there are other markers of eligibility, which would include age and educational qualifications. This is also apparent from the OM dated 1st July 1998, cited by learned counsel for the Petitioner, which, in the context of "relaxed standards" illustratively cites "age limit, experience, qualification, permitted number of chances in written examination, extended zone of consideration larger than what is provided for General Category candidates, etc.". The word "etc." has to be read ejusdem generis. It takes colour from the preceding words which refer to age limit, experience, ·and qualifications. It does not contemplate physical standards which would vary depending on gender, geographical location, and so on." (**emphasis supplied**)

12. The interpretation given by the High Court to the office memorandum is in sync with the stance taken by the 1st respondent-Union of India that the said office memorandum does not bar the migration of reserved candidates availing relaxation in physical standards, which depends on the gender/ethnic background of the candidate concerned.

13. Given this situation, we find no reason to differ from the view expressed by the recruiting authority i.e., 2nd respondent-UPSC as well as 1st Respondent-Union of India, with regard to

the scope and ambit of the embargo in the office memorandum, as upheld by the High Court.

14. In light of the aforesaid discussion, we are of the view that the judgement and order of the High Court does not call for interference. Appeal is dismissed. Pending application(s), if any, shall stand disposed of.

……, J
(**SURYA KANT**)

……, J
(**JOYMALYA BAGCHI**)

New Delhi,

September 09, 2025.