

Court No. - 33

Case :- WRIT - A No. - 9614 of 2018

Petitioner :- Divya Prakash Mishra And 32 Others

Respondent :- State Of U.P. And 3 Others

Counsel for Petitioner :- Rakesh Pande, Avadhesh Kumar Upadhyay

Counsel for Respondent :- C.S.C., Avneesh Tripathi, M.N. Singh

Connected with

Case :- WRIT - A No. - 9818 of 2018

Petitioner :- Jayshakar Barnwal

Respondent :- State Of U.P. And 3 Others

Counsel for Petitioner :- Upendra Kumar Pandey

Counsel for Respondent :- C.S.C., Avneesh Tripathi, Avnish Tripathi, M.N. Singh

AND

Case :- WRIT - A No. - 10147 of 2018

Petitioner :- Smt. Archana Mishra

Respondent :- State Of U.P. And 3 Others

Counsel for Petitioner :- Ram Kishun Misra

Counsel for Respondent :- C.S.C., Avneesh Tripathi, M.N. Singh

AND

Case :- WRIT - A No. - 10257 of 2018

Petitioner :- Amit Mishra And Another

Respondent :- State Of U.P. And 03 Others

Counsel for Petitioner :- Shyam Shankar Shukla, Dinesh Mishra

Counsel for Respondent :- C.S.C., Avneesh Tripathi, M.N. Singh

AND

Case :- WRIT - A No. - 10348 of 2018

Petitioner :- Ram Krishna Shukla And 8 Others

Respondent :- State Of U.P. And 3 Others

Counsel for Petitioner :- Navin Kumar Sharma

Counsel for Respondent :- C.S.C., M.N. Singh

AND

Case :- WRIT - A No. - 10688 of 2018

Petitioner :- Suneeta Singh

Respondent :- State Of U.P. And 3 Ors.

Counsel for Petitioner :- Shrawan Kumar Pandey, Shobh Nath Pandey

Counsel for Respondent :- C.S.C., Avneesh Tripathi, M.N. Singh

AND

Case :- WRIT - A No. - 10731 of 2018

Petitioner :- Pankaj Kumar Pandey

Respondent :- State Of U.P. And 3 Others

Counsel for Petitioner :- Shishir Kumar Dwivedi

Counsel for Respondent :- C.S.C., Avneesh Tripathi, M.N. Singh

AND

Case :- WRIT - A No. - 10862 of 2018

Petitioner :- Santosh Kumar Singh And Another

Respondent :- State Of U.P. And 3 Others

Counsel for Petitioner :- Brajesh Kumar Singh

Counsel for Respondent :- C.S.C., Avneesh Tripathi, M.N. Singh

AND

Case :- WRIT - A No. - 11004 of 2018

Petitioner :- Sinhasan Ram

Respondent :- State Of U.P. And 3 Others

Counsel for Petitioner :- Shobh Nath Pandey, Shrawan Kumar Pandey

Counsel for Respondent :- C.S.C., M.N. Singh

AND

Case :- WRIT - A No. - 11041 of 2018

Petitioner :- Satyendra Kumar Singh And 7 Others

Respondent :- State Of U.P. And 3 Others

Counsel for Petitioner :- Rishi Kant Rai, Bhupesh Pratap Singh, Sriprakash Rai

Counsel for Respondent :- C.S.C., Avneesh Tripathi, M.N. Singh

AND

Case :- WRIT - A No. - 11057 of 2018

Petitioner :- Mahendra Singh

Respondent :- State Of U.P. And 2 Ors.

Counsel for Petitioner :- Dinesh Kumar Singh

Counsel for Respondent :- C.S.C., Avneesh Tripathi, M.N. Singh

AND

Case :- WRIT - A No. - 11419 of 2018

Petitioner :- Atul Kumar Srivastava And Another

Respondent :- State Of U.P. And 3 Others

Counsel for Petitioner :- Sudhir Kumar Upadhyay, Avadhesh Kumar Upadhyay

Counsel for Respondent :- C.S.C., Avneesh Tripathi, M.N. Singh

AND

Case :- WRIT - A No. - 12105 of 2018

Petitioner :- Rajesh Kumar Singh And 7 Others

Respondent :- State Of U.P. And 3 Others

Counsel for Petitioner :- Avadhesh Kumar Upadhyay, Jayprakash Tiwari, Sriprakash Rai

Counsel for Respondent :- C.S.C., Avneesh Tripathi, M.N. Singh

AND

Case :- WRIT - A No. - 12216 of 2018

Petitioner :- Sunil Kumar And Another

Respondent :- State Of U.P. 3 Others

Counsel for Petitioner :- Anil Kumar

Counsel for Respondent :- C.S.C., Avneesh Tripathi, M.N. Singh

AND

Case :- WRIT - A No. - 12596 of 2018

Petitioner :- Anjali Tripathi And 6 Others

Respondent :- State Of U.P. And 3 Others

Counsel for Petitioner :- Navin Kumar Sharma

Counsel for Respondent :- C.S.C., Avneesh Tripathi, M.N. Singh

AND

Case :- WRIT - A No. - 12622 of 2018

Petitioner :- Niraj Sengar

Respondent :- State Of U.P. And 3 Others

Counsel for Petitioner :- Abhishek Bhatnagar, Shabana Nizam

Counsel for Respondent :- C.S.C., Avneesh Tripathi, M.N. Singh

AND

Case :- WRIT - A No. - 12911 of 2018

Petitioner :- Krishna Kumar

Respondent :- State Of U.P. And 3 Others

Counsel for Petitioner :- Ashwani Kumar Pathak

Counsel for Respondent :- C.S.C.,Avneesh Tripathi,M.N. Singh

AND

Case :- WRIT - A No. - 13224 of 2018

Petitioner :- Vinay Kumar Pandey And 2 Others

Respondent :- State Of U.P. And 3 Others

Counsel for Petitioner :- Ravindra Prakash Srivastava

Counsel for Respondent :- C.S.C.,Avneesh Tripathi,M.N. Singh

AND

Case :- WRIT - A No. - 13464 of 2018

Petitioner :- Shailendra Kumar Srivastava

Respondent :- State Of U.P. And 3 Others

Counsel for Petitioner :- Narsingh Pandey,Rama Shankar
Upadhyay

Counsel for Respondent :- C.S.C.,Avneesh Tripathi,M.N. Singh

AND

Case :- WRIT - A No. - 13590 of 2018

Petitioner :- Vinod Kumar Mishra

Respondent :- State Of U.P. And 3 Others

Counsel for Petitioner :- Bhanu Dutt Pandey

Counsel for Respondent :- C.S.C.,M.N. Singh

AND

Case :- WRIT - A No. - 13597 of 2018

Petitioner :- Vijay Kumar And 3 Others

Respondent :- State Of U.P. And 2 Others

Counsel for Petitioner :- Agnihotri Kumar Tripathi,Rajesh Kumar
Pandey

Counsel for Respondent :- C.S.C.,M.N. Singh

AND

Case :- WRIT - A No. - 13611 of 2018

Petitioner :- Namo Narayan

Respondent :- State Of U.P. And 3 Others

Counsel for Petitioner :- Chandra Dutt
Counsel for Respondent :- C.S.C.,M.N. Singh

AND

Case :- WRIT - A No. - 13618 of 2018

Petitioner :- Anita Mishra
Respondent :- State Of U.P. And 3 Others
Counsel for Petitioner :- Amresh Kumar Tiwari
Counsel for Respondent :- C.S.C.

AND

Case :- WRIT - A No. - 13644 of 2018

Petitioner :- Jai Prakash Mishra
Respondent :- State Of U.P. And 3 Others
Counsel for Petitioner :- Surendra Prasad Mishra
Counsel for Respondent :- C.S.C.,M.N. Singh

AND

Case :- WRIT - A No. - 13651 of 2018

Petitioner :- Narendra Singh Yadav And Another
Respondent :- State Of U.P. And 3 Others
Counsel for Petitioner :- Pawan Kumar Srivastava,Sushil Kumar Pandey
Counsel for Respondent :- C.S.C.,M.N. Singh

AND

Case :- WRIT - A No. - 13653 of 2018

Petitioner :- Renu Yadav
Respondent :- State Of U.P. And 3 Others
Counsel for Petitioner :- Ashish Malhotra
Counsel for Respondent :- C.S.C.,M.N. Singh

AND

Case :- WRIT - A No. - 13658 of 2018

Petitioner :- Vineeta Singh
Respondent :- State Of U.P. And 2 Others
Counsel for Petitioner :- Shailendra Kumar Pandey
Counsel for Respondent :- C.S.C.,M.N. Singh

AND

Case :- WRIT - A No. - 13663 of 2018

Petitioner :- Sanjay Kumar And 2 Others

Respondent :- State Of U.P. And 3 Others

Counsel for Petitioner :- Man Bahadur Singh

Counsel for Respondent :- C.S.C.,M.N. Singh

AND

Case :- WRIT - A No. - 13667 of 2018

Petitioner :- Pankaj Gupta And 2 Others

Respondent :- State Of U.P. And 2 Others

Counsel for Petitioner :- Agnihotri Kumar Tripathi,Rajesh Kumar Pandey

Counsel for Respondent :- C.S.C.,M.N. Singh

AND

Case :- WRIT - A No. - 13676 of 2018

Petitioner :- Abhijeet Mitra And 2 Others

Respondent :- State Of U.P. And 3 Others

Counsel for Petitioner :- Shambhavi Nandan

Counsel for Respondent :- C.S.C.,M.N. Singh

AND

Case :- WRIT - A No. - 13682 of 2018

Petitioner :- Nalini Tiwari

Respondent :- State Of U.P. And 3 Others

Counsel for Petitioner :- Shashi Kant Mishra

Counsel for Respondent :- C.S.C.,M.N. Singh

AND

Case :- WRIT - A No. - 13693 of 2018

Petitioner :- Mridula Shukla

Respondent :- State Of U.P. And 3 Others

Counsel for Petitioner :- Akhilesh Kumar,Urmila Shukla

Counsel for Respondent :- C.S.C.,M.N. Singh

AND

Case :- WRIT - A No. - 13695 of 2018

Petitioner :- Manoj Kumar

Respondent :- State Of U.P. And 3 Others

Counsel for Petitioner :- Dinesh Kumar Misra
Counsel for Respondent :- C.S.C.,M.N. Singh

AND

Case :- WRIT - A No. - 13698 of 2018

Petitioner :- Ram Niwas Singh Yadav And 5 Others
Respondent :- State Of U.P. And 3 Others
Counsel for Petitioner :- Phool Chandra Yadav
Counsel for Respondent :- C.S.C.,M.N. Singh

AND

Case :- WRIT - A No. - 13701 of 2018

Petitioner :- Rajesh Kumar Mishra And 4 Others
Respondent :- State Of U.P. And 3 Others
Counsel for Petitioner :- Manish Kumar Tiwari
Counsel for Respondent :- C.S.C.,M.N. Singh

AND

Case :- WRIT - A No. - 13703 of 2018

Petitioner :- Udai Prakash Tiwari And 2 Others
Respondent :- State Of U.P. Through Its Secretary, Government Of
 Up, Lucknow And 2 Others
Counsel for Petitioner :- Vikas Mani Srivastava,Dinesh Mishra
Counsel for Respondent :- C.S.C.,M.N. Singh

AND

Case :- WRIT - A No. - 13707 of 2018

Petitioner :- Sushma Singh
Respondent :- State of U.P. and Another
Counsel for Petitioner :- Saurabh Yadav,Bharat Singh Pal
Counsel for Respondent :- C.S.C.,M.N. Singh

AND

Case :- WRIT - A No. - 13711 of 2018

Petitioner :- Mamta
Respondent :- State Of U.P. And 3 Others
Counsel for Petitioner :- Suresh Kumar Maurya
Counsel for Respondent :- C.S.C.,M.N. Singh

AND

Case :- WRIT - A No. - 13713 of 2018

Petitioner :- Raj Kumar And 4 Others

Respondent :- State Of U.P. And 3 Others

Counsel for Petitioner :- Avadhesh Kumar Upadhyay, Sriprakash Rai

Counsel for Respondent :- C.S.C., M.N. Singh

AND

Case :- WRIT - A No. - 13725 of 2018

Petitioner :- Chandra Shekhar Yadav And 3 Others

Respondent :- State Of U.P. And 3 Others

Counsel for Petitioner :- Kamalendra Kumar Maurya

Counsel for Respondent :- C.S.C., M.N. Singh

AND

Case :- WRIT - A No. - 13729 of 2018

Petitioner :- Krishna Mohan Srivastava And 3 Others

Respondent :- State Of U.P. And 3 Others

Counsel for Petitioner :- Man Bahadur Singh

Counsel for Respondent :- C.S.C., M.N. Singh

AND

Case :- WRIT - A No. - 13731 of 2018

Petitioner :- Nisha Devi

Respondent :- State Of U P And 3 Others

Counsel for Petitioner :- Deepak Kumar Jaiswal, Omkar Nath Rai

Counsel for Respondent :- C.S.C., M.N. Singh

AND

Case :- WRIT - A No. - 13750 of 2018

Petitioner :- Anjulata Mishra

Respondent :- State Of U.P. And 3 Others

Counsel for Petitioner :- Brijendra Mani Shukla, Parmatma Prasad Pandey

Counsel for Respondent :- C.S.C., M.N. Singh

AND

Case :- WRIT - A No. - 13751 of 2018

Petitioner :- Yatindra Singh

Respondent :- State Of U.P. And 3 Others

Counsel for Petitioner :- Chandra Dutt

Counsel for Respondent :- C.S.C.,M.N. Singh

AND

Case :- WRIT - A No. - 13755 of 2018

Petitioner :- Km. Rita Roy

Respondent :- State Of U.P. And 3 Others

Counsel for Petitioner :- Ram Sevak Yadav

Counsel for Respondent :- C.S.C.,M.N. Singh

AND

Case :- WRIT - A No. - 13757 of 2018

Petitioner :- Aruna Tiwari @ Aruna Dixit And Another

Respondent :- State Of U.P. And 3 Others

Counsel for Petitioner :- Abhishek Tiwari

Counsel for Respondent :- C.S.C.,M.N. Singh

AND

Case :- WRIT - A No. - 13761 of 2018

Petitioner :- Kalp Nath Singh

Respondent :- State Of U.P. And 3 Others

Counsel for Petitioner :- R.B. Singh

Counsel for Respondent :- C.S.C.,M.N. Singh

AND

Case :- WRIT - A No. - 13763 of 2018

Petitioner :- Narendra Kumar

Respondent :- State Of U.P. And 2 Others

Counsel for Petitioner :- Ghan Shyam Maurya,Gulab Singh

Counsel for Respondent :- C.S.C.,M.N. Singh

AND

Case :- WRIT - A No. - 13772 of 2018

Petitioner :- Alok Kumar Pathak And 7 Others

Respondent :- State Of U.P. And 2 Others

Counsel for Petitioner :- Agnihotri Kumar Tripathi,Rajesh Kumar Pandey

Counsel for Respondent :- C.S.C.,M.N. Singh

AND

Case :- WRIT - A No. - 13776 of 2018

Petitioner :- Krishna Kumar Yadav

Respondent :- State Of U.P. And 3 Others

Counsel for Petitioner :- Gautam,Om Prakash Yadav

Counsel for Respondent :- C.S.C.,M.N. Singh

AND

Case :- WRIT - A No. - 13777 of 2018

Petitioner :- Siya Ram Patel And 3 Others

Respondent :- State Of U.P. And 3 Others

Counsel for Petitioner :- Umesh Chandra Yadav

Counsel for Respondent :- C.S.C.,M.N. Singh

AND

Case :- WRIT - A No. - 13778 of 2018

Petitioner :- Anita Kumari

Respondent :- State Of U.P. And 3 Others

Counsel for Petitioner :- Surya Shanker Pandey

Counsel for Respondent :- C.S.C.,M.N. Singh

AND

Case :- WRIT - A No. - 13782 of 2018

Petitioner :- Smt. Chanchal Agrawal

Respondent :- State Of U.P. And 3 Others

Counsel for Petitioner :- Ayank Mishra,Pradeep Kumar
Tripathi,Praval Tripathi,Vivek Kumar Srivastava

Counsel for Respondent :- C.S.C.,M.N. Singh

AND

Case :- WRIT - A No. - 13787 of 2018

Petitioner :- Anupama Sharan

Respondent :- State Of U.P. And 3 Others

Counsel for Petitioner :- Ayank Mishra,Vivek Kumar Srivastava

Counsel for Respondent :- C.S.C.,M.N. Singh

AND

Case :- WRIT - A No. - 13792 of 2018

Petitioner :- Santosh Srivastava And Another
Respondent :- State Of U.P. And 2 Others
Counsel for Petitioner :- Ravindra Kumar Tripathi, Sarvanand Pandey
Counsel for Respondent :- C.S.C., M.N. Singh

AND

Case :- WRIT - A No. - 13796 of 2018

Petitioner :- Kamruddin
Respondent :- State Of U P And 2 Others
Counsel for Petitioner :- Laxman Prasad, Ashok Kumar Yadav
Counsel for Respondent :- C.S.C., M.N. Singh

AND

Case :- WRIT - A No. - 13799 of 2018

Petitioner :- Rita Rani Agarwal
Respondent :- State Of U.P. And 3 Others
Counsel for Petitioner :- Amit Kumar Gaur
Counsel for Respondent :- C.S.C., M.N. Singh

AND

Case :- WRIT - A No. - 13806 of 2018

Petitioner :- Akhilesh Kumar Mishra And Another
Respondent :- State Of U.P. And 3 Others
Counsel for Petitioner :- Bhanu Dutt Pandey
Counsel for Respondent :- C.S.C., M.N. Singh

AND

Case :- WRIT - A No. - 13807 of 2018

Petitioner :- Rajvant
Respondent :- State Of U.P. And 3 Others
Counsel for Petitioner :- Sarvodaya Singh
Counsel for Respondent :- C.S.C., M.N. Singh

AND

Case :- WRIT - A No. - 13808 of 2018

Petitioner :- Jai Shree Singh And 7 Others
Respondent :- State Of U.P. And 3 Others
Counsel for Petitioner :- Navin Kumar Sharma
Counsel for Respondent :- C.S.C., M.N. Singh

Hon'ble Ashwani Kumar Mishra,J.

1. This bunch of writ petitions raise common question of law and fact and, therefore, are being disposed of by this common judgment. Writ Petition No. 9614 (Divya Prakash Mishra and 32 others Vs. State of U.P. and 3 others) is taken as the leading case.

2. All the writ petitioners have applied for appointment to the post of Assistant Teachers (L.T. Grade) in Secondary Schools run by State of U.P. which are recognized under the U.P. Intermediate Education Act, 1921. Appointments to the posts are governed by the Uttar Pradesh Subordinate Educational (Trained Graduates Grade) Service Rules, 1983 (hereinafter referred to as the 'Rules of 1983'). These rules have also been amended from time to time, reference to some of which are necessary.

3. On 28.2.2014, vide Third Amendment Rules introduced in the Rules of 1983, the weightage given hitherto to Post Graduate Qualification was done away with. The process of recruitment was thereafter initiated on 22.7.2014 for filling up 6645 posts of Assistant Teachers (L.T. Grade) in Government Secondary Schools. This recruitment process apparently faced multiple difficulties and only part of the vacancies could be filled against the advertised 6645 vacancies. Considering the difficulties faced in undertaking recruitment, the State introduced Fourth Amendment Rules on 19.10.2016 and the Regional Cadre for the service was substituted with State Cadre. After including leftover vacancies, a fresh advertisement came to be issued on 19.12.2016 inviting applications to fill up 5342 vacancies of Assistant Teachers (L.T. Grade) in Government Secondary Schools.

4. All the petitioners in the present bunch of writ petitions were eligible for the post and consequently applied online as per the advertisement dated 19.12.2016 by depositing necessary fee etc. Rule 10 of the Rules of 1983 required an applicant to be above 21

years of age as on 1.7.2016, but below the age of 40 years on that day. This recruitment, however, could not be concluded apparently due to change in the recruitment policy and a decision was taken to discontinue the recruitment. The advertisement was cancelled. The Rules of 1983 were amended yet again vide Fifth Amendment Rules, 2017 as per which the appointments were to be made through the U.P. Public Service Commission by holding a written examination. A fresh advertisement came to be issued on 15th March, 2018 advertising 10768 posts of Assistant Teachers (L.T. Grade) in Government Secondary Schools. These posts apparently included 5342 vacancies advertised earlier on 19.12.2016 against which the petitioners had applied.

5. Petitioners, who were eligible and had already applied against the previous Advertisement, dated 19.12.2016, however, became overage by the time fresh Advertisement was published on 15.3.2018. It is at this stage that the petitioners approached this Court by filing the present writ petition. It was contended that vacancy on the post of Assistant Teacher (L.T. Grade) had not only arisen when petitioners were eligible in terms of age but were also advertised and, therefore, petitioners acquired right to be considered for appointment against such advertised vacancy and such right could not be defeated in the manner as has been done by the State. The writ petition was entertained and following interim protection was granted in the leading case on 11.4.2018:-

"Thirty three petitioners are before this Court in the present petition contending that they had applied pursuant to advertisement issued in December, 2016 for recruitment to the post in question and that they possessed the requisite eligibility in terms of the advertisement as well as the Rules then enforced. The State Government has cancelled the recruitment process initiated in 2016. A fresh process is now initiated, in which the petitioners are not eligible as they have crossed the maximum age of 40 years.

Learned counsel for the petitioners places reliance upon Rule 10 of the Rules of 1983 in order to contend that the required age warranted in terms of Rule was above 21 years on the 1st July of the year of recruitment but below 40 years. Submission is that petitioners had a right to be considered for appointment

which had been availed by them. Submission is that the State by cancelling the process and thereafter initiating a fresh process cannot be permitted to take away the petitioner's right to be considered for appointment against the vacancy advertised in the year 2016.

Matter was deferred on the previous occasion so as to permit learned Standing Counsel to obtain instructions. Sri P.K. Pandey, learned Additional Chief Standing Counsel has produced the instructions received from the State Government, as per which, it would not be permissible for the petitioners to be considered for the purposes, once they are not found eligible in terms of the advertisement and the Rules.

Submission, in reply, of the petitioners is that this would result in denial of opportunity to the petitioners to apply for the post and would clearly be arbitrary.

Matter requires consideration.

Notice on behalf of respondent Nos.1, 2 and 3 is accepted by Sri P.K. Pandey, learned Additional Chief Standing Counsel whereas Sri Avaneesh Tripathi appears for respondent no.4.

All the respondents may file counter affidavit within three weeks.

Rejoinder affidavit may be filed within one week, thereafter.

List thereafter.

Considering the facts and circumstances noticed above, it is provided as an interim measure that petitioners shall be permitted to apply for the post in question and their claim would not be non-suited merely for the reason that they have become over age. Their candidature, however, shall be subject to outcome of this petition."

6. Similar protection has been granted to other petitioners. The petitioners, consequently, have participated in the recruitment initiated vide Advertisement dated 15th March, 2018, but their results have not been declared on account of pendency of the present bunch of writ petitions and the orders passed therein. It is urged that the writ petitioners who have secured selection on the strength of their merit against Advertisement, dated 15th March, 2018, are entitled to declaration of their results and consequential appointment. Upon a specific query made, learned counsel for the Commission has produced written instructions from the Commission as per which 14 petitioners in this bunch of cases have qualified the exam and while result has been withheld in respect of two such candidates, the remaining 12 petitioners in the bunch of cases are selected provisionally subject to the outcome of these cases.

7. A counter affidavit has been filed on behalf of the State in which it is stated that the petitioners do not get any right to age relaxation merely on the strength of their previous application against Advertisement, dated 19.12.2016 and the petitioners cannot, therefore, claim relaxation in maximum age prescribed in Rule 10. Reliance is also placed upon a judgment of this Court in Writ Petition No. 8916 of 2018 (Sunil Dutt Tripathi Vs. State of U.P. and 3 others). A rejoinder has also been filed to the counter affidavit of the respondents. An amendment application has also been filed seeking correction in the details of some of the petitioners which has been allowed by a separate order of the date.

8. Heard Sri Rakesh Pande, learned Senior Counsel assisted by Sri Avadhesh Kumar Upadhyay as well as Ms. Vishakha Pandey for the petitioners in leading writ petition, Sri Navin Kumar Sharma, Sri Chandra Dutt, Sri Manish Kumar Tiwari, Dinesh Kumar Singh, Sri Saurabh Yadav, Sri Ashwani Kumar Pathak, Sri Phool Chandra Yadav, Sri Amresh Kumar Tiwari, Sri Praval Tripathi, Sri Jyoti Kumar Singh, Sri A.K. Upadhyay, Sri Shrawan Kumar Pandey and Sri Ghanshyam Maurya for the petitioners in the connected writ petitions, Sri Avneesh Tripathi, learned counsel for the Public Service Commission and Sri Vivek Rai, learned Additional Chief Standing Counsel for the State respondents and perused the materials brought on record.

9. Petitioners have essentially challenged the Advertisement No. A-1/E-1/2018, dated 15.03.2018, in so far as it specifies maximum age of eligibility as 40 years on 1.7.2018 and to permit them to participate in the selection process initiated for appointment against 9342 vacancies advertised earlier on 19.12.2016. It is contended that petitioners were well within the zone of eligibility in terms of Advertisement, dated 19.12.2016 and had also applied for appointment against such vacancies and since the advertisement, dated 19.12.2016 has been withdrawn, on account of change of policy introduced by the State, therefore, their right to be considered

against vacancies already notified on 19.12.2016, cannot be taken away by the State, even if the policy to discontinue the previous recruitment initiated on 19.12.2016 and re-advertised the post on 15.3.2018 is upheld.

10. Recruitment on the post of Assistant Teacher in L.T. Grade has to be made in accordance with the Rules of 1983. These rules have been amended from time to time. This Court in the case of Himanshu Shukla and another Vs. State of U.P. and others, writ petition no. 48664 of 2017, decided on 13.4.2018 while upholding the change of policy in recruitment has traced the amendments, which came to be made in the Rules of 1983, from time to time. In order to appreciate the controversy raised, it would be of help to reproduced the following passage from the judgment of this Court in Himanshu Shukla (supra):-

".....The Rules of 1983, as they originally stood, contemplated a cadre of Trained Graduate Teachers, both for men and women at regional level. Posts in the cadre were to be filled by direct recruitment and also by promotion through the U.P. Public Service Commission (hereinafter referred to as 'the Commission'). The Commission was to invite applications for direct recruitment and subject the candidates having eligibility in terms of the rule to interview, and accordingly prepare a select list. The Rules of 1983 have been amended from time to time, which have a material bearing on the controversy raised in this bunch of writ petitions. As all these writ petitions involve common questions of law and fact, and have been heard together, therefore, are being disposed of by this common judgment.

2. At the outset, it would be appropriate to refer to the successive amendments made in the Rules of 1983. First Amendment to the Rules of 1983 was made vide notification dated 6th November, 1992. Rule 5 of the 1983 Rules, which provided for direct recruitment to be made in the cadre through the Public Service Commission, was substituted with direct recruitment to be made by selection committee, as specified. For promotions also the Commission seized to have any role. Other amendments were also made with which the Court is not concerned as of now. Second Amendment in the Rules of 1983 was made vide notification dated 8th September, 2010. The qualifications prescribed for different posts in the cadre was amended. Rule 15, which provided for making of application to the Regional Deputy Director of Education, was amended to mean Regional Joint Director of Education. Recruitment procedure provided under the Second Amendment introduced in the Rules of 1983 remained intact.

3. Yet another notification was issued on 28.2.2014, incorporating amendment in the Rules of 1983 by way of Uttar Pradesh Subordinate Educational (Trained Graduates Grade) Service (Third

Amendment) Rules, 2014. The maximum age for recruitment to the posts as provided in Rule 10 was increased from 32 to 40. Criteria for computation of quality point marks for selection by direct recruitment was altered. The weightage allocated for Postgraduate Degree was omitted. Rule 15 was also amended, which dealt with the manner of preparation of select list for selecting candidates by direct recruitment. With the changes brought about by the Third Amendment, recruitment to the cadre was to be made region-wise, with the appointing authority for direct recruitment being Regional Deputy Director of Education for the men branch and Regional Inspectress of Girl's Schools in respect of women branch.

4. Rules of 1983 were yet again amended vide notification dated 19th October, 2016 pursuant to Fourth Amendment Rules of 2016. Rule 3 was amended and the appointing authority for both men branch and women branch was substituted as Additional Director of Education, Secondary, U.P. Allahabad. The regional cadre both for men and women branches, as it stood earlier, was substituted with a State cadre for men and women branches. The qualification for various posts were also prescribed. Rule 14, which provided for determination of vacancies to be filled during the course of year of recruitment, was required to be determined subjectwise for men and women branches. The procedure for direct recruitment was also modified. The selection committee also underwent a change.

5. The Rules of 1983 lastly came to be amended on 23rd August, 2017 by way of Fifth Amendment Rules of 2017. Sub-rule 3(c) was added to Rule 3, which defined 'Commission' as the 'U.P. Public Service Commission, Allahabad'. Rule 5 was also amended so as to provide for appointment by direct recruitment through the Public Service Commission. Rule 3(b) was omitted. Rule 10 was also amended and the maximum age for recruitment to the post covered under the Rules of 1983 was specified as 40 years. The procedure contemplated under Rule 15 was changed so as to ensure direct recruitment in the cadre to be made by the U.P. Public Service Commission. Such direct recruitment by the Commission is to be made on the basis of a written test and the consequential merit list prepared on the basis of the same. Such merit list is to be sent by the Commission to the appointing authority, who in turn was to make appointments therefrom. However, the appointing authority remained the same i.e. the Additional Director of Education."

11. Petitioners in Himanshu Shukla (supra) were claiming consideration pursuant to advertisements issued in the year 2011, 2014 and 2016, which had since been discontinued due to change of policy as well as consequential 5th Amendment in the Rules of 1983, notified on 23rd August, 2017. It was urged that vacancies advertised earlier had to be filled in accordance with the rules existing then and that vacancies caused previously are not open to be filled in accordance with 5th Amendment Rules. So far as the legal proposition urged was concerned, the Court proceeded to observe as under in paragraph 44 of the judgment in Himanshu Shukla

(supra):-

“44. There is no dispute on the legal proposition canvassed on behalf of petitioners that amendment introduced in the Rules of recruitment cannot be given retrospective effect, unless the rules itself specifically permits it. The Principle that once the Game has commenced, the rules of Game cannot be changed in between is too well settled to be questioned. The question that arises on the facts of the case is as to whether State is justified in evolving a new policy for recruitment; amending the rules; cancelling the on-going recruitment process and undertaking the recruitment afresh as per the amended rules?”

12. However, on the facts of the case the Court found that change of policy introduced by the State was based on a justifiable reason. Stand of the State Government was scrutinized by the Court to observe as under in paragraphs 45 to 50:-

“45. Before proceeding further, it would be appropriate to notice the concern express by the Additional Chief Secretary in his affidavit before this Court in para 10, which is extracted above. The recruitment as per Rules of 1983 were based upon quality point marks calculated on the basis of a candidate's performance in High School, Intermediate, Graduation and Training. Schedule to Rule 15(2) lays down the criteria for determining the quality point marks, which reads as under:-

“परिशिष्ट ‘घ’”			
(नियम 015 (2) देखिये)			
सीधी भर्ती द्वारा चयन के लिए गुणवत्ता बिन्दु :-			
परीक्षा का नाम	गुणवत्ता बिन्दु		
1-हाईस्कूल	अंको का प्रतिशत		
	10		
2-इण्टरमीडिएट	अंको का प्रतिशत X 2		
	10		
3-स्नातक उपाधि	अंको का प्रतिशत X 4		
	10		
अन्य			
4-प्रशिक्षण :-	प्रथम श्रेणी	द्वितीय श्रेणी	तृतीय श्रेणी
(क) सिद्धान्त	12	6	3
(ख) क्रियात्मक	12	6	3
5-स्नातकोत्तर उपाधि	15	10	5

46. The post graduation qualification has been done away with in the Fourth Amendment to the Rules of 1983. Marks secured by a candidate in the High School and Intermediate, therefore, assumes significance. The Additional Chief Secretary has stated in Para 10 before this Court that questions are being raised about High School and Intermediate examinations, as such it was held proper to select candidate on the basis of written examination to be held by the Commission in place of academic performance and training marks. The Court also cannot shut its eye to what is widely

reported in newspapers about High School and Intermediate Examinations conducted by the U.P. Board. In the High School and Intermediate Board Examination of the year, it was widely reported that on account of stringent checks placed against copying in Board Examinations, more than 11 lacs students have left the exam. This is a serious matter. Although, it would not be appropriate to express any doubts on the credibility of marks awarded by the Board, but the concern expressed by the Additional Chief Secretary in para 10 cannot be said to be unfounded. If the State, therefore, decides to have the merits of candidate examined by way of written examination conducted by U.P. Public Service Commission, then such a policy decision cannot be said to be irrational, discriminatory or arbitrary.

47. Learned counsel for the petitioners, during the course of submission, have also pointed out recent incidents questioning the credibility of recruitment undertaken by the Public Service Commission also. No doubt this Court had to intervene to maintain transparency in the matter of holding of examination by the Commission but for such reasons, the institutional integrity and competence of the Commission itself cannot be put to question. It remains a constitutional body and the constitutional faith reposed in its functioning in the matter of undertaking recruitment cannot be doubted, or easily questioned by isolated acts of abrasion.

48. Although recruitment based on quality point marks has been held to be a valid criteria for recruitment, but it ultimately remains a matter of policy for the State to choose as to what would be the appropriate procedure to be followed for the purpose. The decision of State to have the recruitment made based upon written test conducted by the Commission cannot be said to be arbitrary.

49. The recruitment initiated pursuant to advertisement dated 19th December, 2016 has not culminated in creation of any vested right in the petitioners. They are mere applicants pursuant to advertisement and have no right to the post. The State for bona fide reasons can always take a decision not to proceed further pursuant to the previous advertisement, and to have the recruitment exercise undertaken afresh, after amending the rules.

50. Law relating to retrospective application of rules, as have been cited before this Court, will have no applicability in the present case. To cancel the recruitment and to undertake it afresh, on the basis of rules amended is not the same as retrospectively applying the recruitment rules. A fresh game starts here, and it can be played on the basis of rules already changed before its commencement."

13. For arriving at the above view, the Court relied upon the Supreme Court in State of Andhra Pradesh and others Vs. D. Dastagiri and others, (2003) 5 SCC 373, wherein the Supreme Court observed as under in paragraphs 4 & 5:-

"4. In the counter affidavit filed on behalf of the respondents in Civil Appeal No. 915/2000, in paragraph 16 it is stated that the process of selection was cancelled at the last stage, i.e., before publishing the list of selected candidates on the sole ground that the State Government wanted to introduce prohibitor and obviously the Government felt that there was no need of Excise Constables

during imposition of prohibition in the State. There is serious dispute as to the completion of selection process. According to the appellants, the selection process was not complete. No record has been placed before us to show that the selection process was complete, but, it is not disputed that the select list was not published. In paragraph 16 of the counter affidavit, referred above, the respondents themselves had admitted that the selection process was cancelled at the last stage. In the absence of publication of select list, we are inclined to think that the selection process was not complete. Be that as it may, even if the selection process was complete and assuming that only select list was remained to be published, that does not advance the case of the respondents for the simple reason that even the candidates who are selected and whose names find place in the select list, do not get vested right to claim appointment based on the select list. It was open to the State Government to take a policy decision either to have prohibition or not to have prohibition in the State. Certainly, the Government had right to take a policy decision. If pursuant to a policy decision taken to impose prohibition in the State there was no requirement for the recruitment of Constables in the Excise Department, nobody can insist that they must appoint the candidates as Excise Constables. It is not the case of the respondent that there was any malafide on the part of the appellants in refusing the appointment to the respondents after the selection process was complete. The only claim was that the action of the appellants, in not appointing the respondents as Excise Constables, was arbitrary. In the light of the facts that we have stated above, when it was open to the Government to take a policy decision, we fail to understand as to how the respondents can dub the action of the Government as arbitrary, particularly, when they did not have any right as such to claim appointments. In the absence of selection and publication of select list, mere concession or submission made by the learned Government Pleader on behalf of the appellant-State cannot improve the case of the respondents. Similarly, such a submission cannot confer right on the respondents, which they otherwise did not have.

5. Under these circumstances, we find it difficult to sustain the impugned judgment and order. However, having regard to the peculiar facts and circumstances of the case and that the respondents had the benefit of the order of the High Court, we think it is just and appropriate that as and when any fresh selection takes place to the post of Excise Constables, the respondents may apply for regular recruitment. In that event, age-bar will not be put against them put, they shall satisfy other eligibility conditions and requirements, including qualification."

(Emphasis supplied)

14. The judgment in State of Andhra Pradesh and others Vs. D. Dastagiri and others (supra) has been specifically relied upon in paragraph 51 of the judgment in Himanshu Shukla. In paragraph 5, the Supreme Court while affirming the change of policy and consequential decision to hold fresh recruitment proceedings protected the candidates against age bar who had applied previously and would have become ineligible due to age. In the facts of the

present case also similar exigency arises, inasmuch as, the petitioners had participated in the previous recruitment which has since been discontinued and have become over age by the time new recruitment as per the amended policy/rule is resorted to.

15. In State of M.P. and others Vs. Sanjay Kumar Pathak and others, (2008) 1 SCC 456 also the Supreme Court examined a similar situation to hold that mere selection creates no indefeasible right to claim appointment and it is always open for the State not to fill up all or any number of vacancy with the only caveat that State action should not be arbitrary or discriminatory after analysing the judgments on the point and upholding the cancellation of selection the Court granted similar relief of age relaxation vide para 27 which is reproduced hereinafter:-

"27. For the reasons aforementioned, the impugned judgment cannot be sustained which is set aside accordingly. However, keeping in view the peculiar facts and circumstances of the case, we direct that the respondents shall be entitled to relaxation of age in the event they intend to take part in the next selection process. The State is also directed to pay a sum of Rs 10,000 each to the respondents concerned. The appeals are allowed. No costs."

16. Respondents, however, rely upon a judgment of this Court in Sunil Dutt Tripathi (supra), in which the same advertisement was questioned on the ground that candidates who had participated earlier would become over age. The writ petition has been dismissed relying upon a previous judgment of this Court in Shri Prakash Srivastava and others Vs. State of U.P. and another, writ petition no. 65848 of 2010, decided on 25.10.2013.

17. In Shri Prakash Srivastava (supra) the writ petitioners had become over age by the time advertisement was issued in the year 2018. It was contended that no recruitment was held in last three years despite availability of vacancy rendering the petitioners ineligible on account of being over age in terms of the advertisement. Similarly for the second set of petitioners also they had become over age on 1.7.2013 and their grievance was that

vacancies occurring in the year 2010, 2011 and 2012 were not advertised. Argument before the Court was that the applicants cannot be made to suffer on account of failure of the recruitment agency to undertake recruitment. The Court relied upon the provisions of Uttar Pradesh Public Services (Relaxation of the age limits for recruitment) Rules, 1992 to observe as under in paragraphs 28, 34 and 36 of the judgment which are reproduced hereinafter:-

"28. However, the above consideration may not strictly apply to the present case inasmuch as, the Governor in exercise of power under proviso to Article 309 of Constitution has published and promulgated another set of Rules, i.e., Uttar Pradesh Public Services (Relaxation of the age limits for recruitment) Rules 1992 (hereinafter referred to "Rules 1992"), published vide notification dated 23rd July 1992. It is a small set of Rules having only three provisions. Rule 2 contains certain definitions. I propose to quote Rules 1 and 3 thereof hereunder:

"1. (1) These rules may be called the Uttar Pradesh Public Services (Relaxation of the age limits for recruitment) Rules, 1992.

(2) They shall come into force at once.

(3) They shall apply to all civil services and posts under the rule making power of the Governor under proviso to Article 309 of the constitution."

"3. Notwithstanding anything to the contrary in any rule-regulating the maximum age of recruitment to a service or post in connection with the affairs of the State relaxation in the maximum age-limit may be granted by the Governor in favour of a candidate or a class of candidates.

Provided that in the case in which recruitment is made through the Commission, that body shall be consulted before the relaxation is granted."

34. It is in these circumstances, I am clearly of the view that in the peculiar facts and circumstances of these cases, it would be in the fitness of things that the Governor ought to have examined the question of granting relaxation in the maximum age limit to the extent of non holding of recruitment for vacancies occurring during the concerned year(s) when no recruitment held and, and, thereby rendering certain candidates overage and ineligible in the matter of age. By exercising its power and considering entire facts and circumstances in accordance with law, whether relaxation is granted or not is a different thing, but at least the matter should have been examined by him. Since recruitment in the present case has to be made through UPPSC, such exercise of power shall be done by the Governor in consultation with UPPSC.

36. Resultantly, all these writ petitions are disposed of by directing the competent authority under Rule 3 of 1992 Rules to consider whether there should be relaxation in the matter of maximum age to such candidates who were otherwise eligible on 1st July of the year but due to non-advertisement of vacancies/non recruitment, they could not apply and became overage. The aforesaid decision shall be taken in consultation with the UPPSC as required by proviso to Rule 3 of 1992 Rules. Such exercise shall be completed

expeditiously, preferably within two months from the date of presentation of a certified copy of this order before the competent authority."

18. In Sunil Dutt Tripathi (supra), this Court also took note of the observations made by the Division Bench of this Court in paragraphs 41 & 42 of the judgment in Sanjay Agarwal Vs. State of U.P. and others, 2007 (6) ADJ 272, paragraphs 41 & 42 to hold as under in paragraph 12:-

"12. The Court has proceeded to examine the record in question and is of the opinion that a candidate cannot compel the employer to fill up a vacancy, as and when it occurred, and/or complain that he has some kind of vested right for process of recruitment, having not conducted with respect to the vacancy in the year when it was available and he was also eligible in the matter of age but become overage due to inaction on the part of respondents in initiation of recruitment process or non holding of any recruitment by recruiting agency. The right of consideration would come in picture only when the vacancy is put for recruitment and the advertisement is published. The right of consideration commences when the recruitment process starts. The incumbent would obviously has right of consideration in accordance with the provisions as they are applicable when the advertisement is made and in accordance with conditions provided in the advertisement read with relevant rules. For the purpose of direct recruitment no person in open market has a right of consideration unless and until the vacancy is offered to be filled in accordance with law by the competent authority. As soon as a post fell vacant, it would not give or confer any right upon an individual, who fulfil other qualifications, to claim right of consideration for employment against such post for the reason that the employer can always keep a post unfilled. A perspective candidate cannot compel the employer to consider him for employment even though the post has not been made open for recruitment and selection. In **Sanjay Kumar Pathak's** case (supra) the Full Bench of this Court has held that unless permitted by the Rules, no relaxation can be claimed."

19. Two distinct factual scenarios are noticed in the aforesaid judgments, which needs to be carefully examined. The first exigency is where vacancies have arisen, but recruitment itself has not been initiated. The second exigency is where the vacancy arises and recruitment has also commenced, but for justifiable grounds the recruitment exercise is cancelled before issuance of select list and the recruitment process is initiated, afresh, as per the amended policy/rules.

20. The judgments that have been relied upon in Sunil Dutt

Tripathi (supra) were essentially dealing with the first exigency, inasmuch as, though vacancy had arisen but the recruitment itself was not undertaken. No advertisement was issued. It was in such exigency that the question arose about the nature of right that would accrue to a prospective candidate who becomes over age on account of non holding of recruitment for several years. It was in that context that this Court in Shri Prakash Srivastava (supra) observed as under in paragraph 25:-

"25. In the absence of any provision whatsoever, I have no manner of doubt that a candidate cannot compel the employer to fill up a vacancy, as and when it occurred, and/or complain that he has some kind of vested right for process of recruitment, having not conducted with respect to the vacancy in the year when it was available and he was also eligible in the matter of age but become overage due to inaction on the part of respondents in initiation of recruitment process or non holding of any recruitment by recruiting agency. Similar arguments have been discarded in Sanjay Agarwal Vs. State of U.P. and others 2007(6) ADJ 272 (DB)=2007(5) ALJ 328(DB). The Division Bench held:

"(40) Moreover, rule 12 provides for age which is independent and is not subject to other rules. Therefore, Rule 12 would apply on its own irrespective of whether determination of vacancies took place at regular intervals as envisaged in Rule 8 or not. Any other view would make Rule 12 subordinate to Rule 8 though the rule framing authority has not said so and, therefore, any attempt by this Court to relax rigour of Rule 12 with reference to Rule 8 would amount to legislation which this Court is neither supposed to do nor should do. Learned counsel for the petitioners could not show any provision whereunder Rule 12 could have been relaxed by the authorities. In the absence of any provision for relaxation, by judicial interpretation or by judicial exercise such relaxation cannot be granted. In Food Corporation of India Vs. Bhanu Lodh (2005) 3 SCC 618 the Apex Court held that rigor of statutory provisions cannot be relaxed giving a total go-bye to the statute.

(41) Further a person if fulfils requisite educational and other qualifications does not possess a fundamental or legal right to be considered for appointment against any post or vacancy as soon as it is available irrespective of whether the employer has decided to fill in the vacancy or not. The right of consideration does not emanate or flow from existence of the vacancy but commences only when the employer decides to fill in the vacancy and the process of recruitment commences when the notification or advertisement of the vacancy is issued. So long as the vacancy is not made available for recruitment, no person can claim that he has a right of consideration since the vacancy exists and therefore, he must be considered. We have not been confronted with any statutory provision or authority in support of this contention that the petitioners have a right of consideration on mere existence of vacancy. On the contrary, we are of considered view that the right of consideration would come in picture only when the vacancy is put for recruitment, i.e., when the advertisement is published. That being so, the right of consideration commences when the recruitment process starts. The incumbent would obviously have right of consideration in accordance with the provisions as they are applicable when the advertisement is made and in accordance with conditions provided in the advertisement read with relevant rules. It is also obvious that if there is any inconsistency between the advertisement and Rules, the statutory rules shall prevail. In Malik Mazhar Sultan (supra), the Apex Court has clearly held that recruitment to the service could only be made in accordance with the Rules and not otherwise."

(Emphasis supplied)

21. A Full Bench of this Court in Sanjay Kumar Pathak Vs. State of U.P. and others, writ petition no. 65189 of 2006, decided on 25th May, 2007, also observed as under:-

"Nobody can claim as a matter of right that recruitment on any post should be made every year."

22. Position in law, however, may not be the same in the second exigency where recruitment process is also initiated upon accrual of vacancy. Once the advertisement is issued and the candidate applies, the right of consideration in terms of Article 16 of the Constitution of India would arise in favour of such candidate. The Courts while affirming the right of employer to cancel the recruitment and initiating the recruitment afresh have recognized a limited right of age relaxation in certain circumstances. This aspect does not appear to have been highlighted before this Court in Sunil Dutt Tripathi's case.

23. The distinction between two exigencies i.e. where vacancy is not advertised and where vacancy is advertised has clearly been noticed in para 41 of the judgment in Sanjay Agarwal (supra).

24. Supreme Court in a recent judgment in Ramjit Singh Kardam and others Vs. Sanjeev Kumar and others reported in 2020 AIR (SC) 2060, observed as under in paragraph 73:-

"73. The learned Single Judge after quashing the select list published on 11.04.2010 directed for fresh selection on post of PTI. The learned Single Judge, however, did not issue appropriate consequential directions for holding the fresh selection. There was no defect in the advertisement dated 20.06.2006 and mode of selection as envisaged by public notice dated 28.12.2006. The arbitrariness crept thereafter from the stage of scrapping the written test scheduled to take place on 20.07.2008. The directions ought to have been issued to complete the process from that stage i.e. the stage of holding the written test. All the candidates who had applied for the post of PTI including those selected, ought to have been permitted to take the written test. We need to clarify that in the facts of the present case there was no requirement of fresh advertisement and inviting fresh applications. In the event fresh applications are called, large number of applicants who participated in the selection would have become over age. All the applicants who had applied in response to advertisement No.6 of 2006 had right to participate in selection as per criterion notified on 28.12.2006. The direction of learned Single Judge needs modification and clarification to the above effect."

(Emphasis supplied)

25. In view of the above discussions, it is apparent that the distinction between a case where vacancy arising was not advertised and where vacancy was advertised but the recruitment was cancelled to be followed by fresh recruitment rendering the applicants overage in the subsequent recruitment has been overlooked by this Court in Sunil Dutt Tripathi (supra) and, therefore, in view of the subsequent judgment of the Supreme Court in Ramjit Singh Kardam (supra), this Court is inclined to recognize the right of the petitioners to claim age relaxation as they were within age and had applied for recruitment pursuant to the earlier advertisement which got cancelled.

26. Following the course made permissible in para 5 of the Supreme Court Judgment in D. Dastagiri (supra) as well as para 27 of the Supreme Court Judgment in State of M.P. Vs. Sanjay Kumar Pathak, I am of the considered opinion that even if previous recruitment was cancelled and change of policy by the State has been affirmed in the case of Himanshu Shukla (supra), which judgment has otherwise been affirmed with dismissal of Special Appeal and Special Leave Petitions, the applicants would be entitled to the limited protection of applying afresh against advertisement dated 15.3.2018 and also from the age bar imposed in accordance with Rule 10 of the Rules of 1983.

27. Ordinarily this Court would have referred the matter to State Government for grant of age relaxation in terms of Rule 3 of the Rules of 1992 but as this Court has already permitted them to appear provisionally for selection under its interim order and certain petitioners have also secured their selection on the strength of their merits it would be appropriate to direct declaration of their result notwithstanding the fact that they have become overage under the new advertisement. This direction, however, is on the facts of this case and shall not be treated as a precedent in other cases. Respondent Commission is thus directed to declare result of writ

petitioners who have appeared against advertisement dated 15.3.2018 and to consider their case for appointment, if they are selected and fulfill other eligibility (except age). Such consideration would be made within a period of two months from today.

28. Writ petitions stand disposed of, accordingly. No order is passed as to costs.

Order Date :- 10.08.2021
Ranjeet Sahu