

CWP-35851-2025

CNR No: PHHC011946042025

2026:PHHC:106312



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-35851-2025

Rohit Soni and others

.....Petitioners

VERSUS

State of Haryana and another

.....Respondents

Reserved on: 07.07.2026

Pronounced on: 05.08.2026

Uploaded on:05.08.2026

Whether only the operative part of the judgment is pronounced? No

Whether full judgment is pronounced? Yes

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present : Mr. Sarthak Gupta, Advocate for the petitioners.

Mr. R.S. Budhwar, Addl. AG Haryana-State.

Mr. Kanwal Goyal with Ms. Sheena Dahiya, Advocates for the respondent-Commission.

HARPREET SINGH BRAR, J.

1. The present writ petition has been filed under Articles 226/227 of the Constitution of India for the issuance of a writ in the nature of

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Certiorari quashing the impugned speaking order dated 16.09.2025 (Annexure P-1) passed by Respondent No. 3, whereby the legitimate claim of the petitioners for consideration against General/Unreserved Category posts has been rejected. It is further prayed for a writ in the nature of *Mandamus* directing the Respondents to recommend and appoint the petitioners against the General/Unreserved Category posts of Post Graduate Teachers (PGTs) in their respective subjects, pursuant to Advertisements No. 18 to 37 of 2024 (Annexure P-2), on the basis of their own merit, as the petitioners have secured marks higher than the cut-off for the General Category and have not availed any relaxation at any stage of the selection process.

CONTENTIONS

2. Learned counsel for the petitioners *inter alia* contended that the Respondent No. 3-Commission issued Advertisements No. 18 to 37 of 2024 on 23.07.2024 (Annexure P-2), inviting applications for 3069 posts of PGTs in various subjects. The closing date for applications was 14.08.2024. The petitioners, being fully eligible, applied for the posts in their respective subjects under their respective reserved categories (BC-A or BC-B).

3. It was submitted that the petitioners have not availed any relaxation meant for reserved categories during the selection process, as all petitioners are within the General Category age limit of 18 to 42 years and meet the essential qualifications and standards applicable to General Category candidates. The petitioners participated in the selection process

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and performed meritoriously, securing marks higher than the cut-off marks prescribed for the General Category candidates at the relevant stage (Screening Test/SKT) in their respective subjects, as summarized in Annexure P-3.

4. During the scrutiny of documents, the candidature of the petitioners under their respective reserved categories was rejected by HPSC, primarily on the ground that their reservation certificates were invalid or issued after the cut-off date, i.e., 14.08.2024. Being aggrieved, the petitioners, along with others, approached this Court and vide order dated 05.08.2025 (Annexure P-4) in CWP No. 20026 of 2024, the petitioners were given the liberty to make representations to Haryana Public Service Commission seeking consideration against General category posts as per their merit.

5. Thereafter, the petitioners submitted representations requesting consideration under the General Category based on their merit and non-availment of relaxations. However, Respondent No. 3-Commission rejected these representations vide the impugned common Speaking Order dated 16.09.2025 (Annexure P-1).

6. Learned counsel for the petitioners argued that the impugned order is arbitrary, illegal, and contrary to settled law. It is a fundamental principle of service jurisprudence that the General/Open category is available to all candidates based purely on merit, and if a candidate belonging to a reserved category secures higher marks than the General

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category cut-off without availing any relaxation, they are entitled to be selected in the Open category, as affirmed by the Hon'ble Supreme Court in *Indra Sawhney v. Union of India, 1992 Supp (3) SCC 217* and *R.K. Sabharwal v. State of Punjab, (1995) 2 SCC 745*.

7. It was further submitted that the rejection of the petitioners' candidature under the reserved category does not disqualify them from the Open category if they are otherwise eligible and meritorious. A Co-ordinate Bench of this Court in **CWP-8574 of 2021**, titled as '*Dinesh Kumar v. State of Haryana*' decided on 06.09.2024 (Annexure P-5), has categorically observed that failure to upload the requisite reserved certificate does not negate the candidate's right to be considered in the General category if their marks merit the same. Similarly, in **CWP No. 10839 of 2017**, titled as '*Amritpal Singh v. State of Punjab*' (Annexure P-6), another Co-ordinate Bench has held that denying consideration in the open category to a meritorious reserved candidate whose reserved claim failed would violate Article 14. Reliance is also placed on the judgement of Co-ordinate Bench of this Court in *Om Roj v. Haryana Staff Selection Commission, 2022(4) SCT 169* and the judgement of the Hon'ble Supreme Court in *Rajasthan High Court v. Rajat Yadav, 2025 INSC 1503*.

8. It was also contended that the petitioners' claim is strongly supported by Clause 11(vi) of the Advertisement (Annexure P-2) itself, which clarifies that only SC/BCA/BCB candidates who are selected on the same standards as applied to General candidates shall not be adjusted against

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reserved vacancies, implying they must be considered against unreserved vacancies. Since the petitioners meet the 'same standards' and have not utilized any relaxations, they must be considered against unreserved vacancies.

9. Learned counsel argued that the reliance by the respondent-Commission on judgement of Co-ordinate Bench of this Court in ***Paramveer Singh v. Punjab Public Service Commission, 2012(1) SCT 542*** (Annexure P-7) is wholly misplaced, as that judgment addressed the timing of migration for Meritorious Reserved Candidates (MRCs) whose reservation is valid, whereas the present case concerns candidates whose reservation claim has been rejected. The arguments regarding prejudice to non-litigants and violation of Clause 16(iii) are also untenable, as a constitutional right based on merit cannot be denied merely because others chose not to assert their rights.

10. *Per Contra*, learned counsel for respondents submitted that the petitioners had applied in response to the Advertisement for different subjects in BC-A and BC-B Category. During scrutiny, it was found that the BC-A/BC-B certificates submitted by them were not in consonance with the specific directions contained in Clause 11(ii) of the advertisement, which required a fresh/latest certificate issued in the year 2024-2025 as per the Government notification dated 16.07.2024. The petitioners submitted fresh certificates that were issued after the closing date, which could not be accepted as per Clause 6 Note 2 (iii) and Clause 16(vi) of the advertisement.

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Therefore, the candidature of the petitioners was finally rejected.

11. Learned counsel submitted that the petitioners had filed various writ petitions against the aforesaid rejection orders and were thereafter provisionally interviewed in compliance of interim directions of this Court. Subsequently, the marks secured by the petitioners were submitted in the Court, and it was apprised that they had secured less marks than the last selected candidate of their respective category, i.e., BC-A/BC-B. After coming to know that they have not come within the selection zone of their reserved category, the petitioners now want their candidature to be considered in the general category.

12. It was also contended that the petitioners had submitted their application forms in BC-A/BC-B Category and had participated in the selection process as such. Their candidature was rejected as they failed to submit their caste certificate as per terms and conditions. After having litigated as a BC-A/BC-B Candidate, the petitioners now want to take a U-turn and be considered in the general category, which amounts to a change of category barred by Clause 16 (iii) of the advertisement, and the writ petition is liable to be dismissed on the principle of estoppel.

13. Learned counsel argued that the impugned speaking order dated 16.09.2025 (Annexure P-1) rightly rejected the claim, as consideration of the petitioners' candidature in the General category would cause grave prejudice to 38 candidates who had accepted the rejection of their candidature and did not file any writ petitions.



14. It was further submitted that the selection process is governed by the guidelines laid down by this Court in *Paramveer Singh (supra)*, wherein it has been observed that reserved category candidates are to be migrated to General category on their own merit only at the final stage. Adopting a different process now would amount to a change in the rules of the game and it would adversely affect the entire selection process. Moreover, learned counsel argued that once a candidate applies and seeks consideration under a particular reserved category, his or her candidature is processed and evaluated in that category throughout the selection process until the declaration of the final result. Where the category certificate furnished by a candidate is found to be deficient or not in conformity with the terms of the advertisement, the candidature under the claimed reserved category is liable to be rejected.

15. It was submitted that the judgment of the Coordinate Bench of this Court in *Dinesh Kumar (supra)*, relied upon by the petitioners, is clearly distinguishable on facts. Learned counsel contended that the said decision dealt with the migration of meritorious reserved category candidates to the Unreserved/General Category at the final stage of the selection process, a principle which is already being duly followed by the respondent-Commission. Had the petitioners secured marks higher than the last selected candidate in the Unreserved Category without availing any relaxation or concession available to the reserved category candidates, and had their category certificates been valid and in conformity with the terms of

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the advertisement, they too would have been considered for migration to the Unreserved Category in accordance with the applicable rules. However, the present case stands on an entirely different footing. The petitioners had submitted category certificates which were not in compliance with the stipulations contained in the advertisement and, therefore, their claim under the reserved category was rightly rejected.

16. Furthermore, learned counsel submitted that the procedure adopted by the respondent-Commission has been uniformly applied to all candidates and that a large number of candidates were rejected on the same grounds. The petitioners were permitted to appear in the interview only by virtue of interim orders passed by this Court, despite their category certificates having been issued beyond the prescribed cut-off date. However, the said interim order(s) are liable to be vacated/negated in view of the authoritative pronouncement of Division Bench of this Court in **LPA No. 1397 of 2025** titled as '*HPSC Vs Pardeep Kumar and others*' decided on 03.11.2025.

17. In rebuttal, learned counsel for the petitioners invited the attention of this Court to the review applications (**RA-LP-16-2026**) filed in **LPA No. 1397 of 2025**, wherein it was specifically contended that, even if the applicants were held disentitled to the benefit of reservation, they were nevertheless entitled to consideration for selection as they had secured marks higher than the last selected candidate in the Unreserved Category. While disposing of the said review applications, the Division Bench clarified

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that candidates who had availed any benefit or relaxation available to a reserved category candidate at any stage of the recruitment process would not be entitled to migrate to the Unreserved Category. However, those candidates who had merely applied under a reserved category, but had not availed any reservation benefit and had secured marks above the cut-off prescribed for the Unreserved Category, would be entitled to be considered against the available unreserved vacancies.

OBSERVATION & ANALYSIS

18. I have heard the learned counsel for the parties and have perused the record with their able assistance. This Court is of the considered view that the issue involved in the present case is no longer *res integra*. In *Om Roj (supra)*, the petitioner had secured marks higher than those obtained by the last selected candidate in the General Category. It was argued on his behalf that even if his EWS certificate was held to be invalid, he could not be denied consideration under the General Category on that ground alone. Conversely, learned counsel for the respondents therein contended that once the petitioner's EWS certificate was found to be invalid, he became ineligible for consideration both under the EWS category as well as the General Category. Rejecting the aforesaid contention, the Coordinate Bench categorically held that a candidate who has applied under a reserved category but is ultimately found ineligible for reservation cannot be denied appointment under the General Category if he has secured marks higher than the last selected candidate in that category and has not otherwise availed any



benefit of reservation. The relevant observations of the Coordinate Bench are reproduced hereinbelow:

“6. It is the basic principle of reservation, which the respondents need to be aware and be careful in future, that first and foremost general category seats are to be filled from the merit list as per result and thereafter the reserved category seats are to be allocated as per the quota assigned thereto.

7. First and foremost, once the merit list is prepared of the general or open category and if any candidate, who has applied under reserved category and not considered eligible, but obtained higher marks than the last selected candidate in general category, even then he has a right of selection and appointment under general category. In the present case, concededly the petitioner had though applied under EWS category and as per declaration of result he scored more marks than the last selected candidate in general category. Petitioner, even if not given the benefit of EWS reservation, he was/is eligible to be considered in General Category as he got more marks i.e. 79 marks as against the last selected candidate in general category, who has scored 70 marks.

8. It is rather preposterous to argue, as is being canvassed by learned State counsel that if in the scrutiny round, a candidate is found not eligible for the reservation sought by him, then he shall not be considered even in the open (General) Category. The same goes against the very content and intent of Article 16 of the Constitution.

9. No doubt, reservation is envisaged on the basis of backward class under Sub Article (4), but in case a candidate is not found or found entitled to the reservation, by no stretch of imagination Article 16 is to be interpreted so as to mean that right of a candidate to be



***considered in open general category is taken away.** If that were to be done, same would be also violative of Article 14 of the Constitution of India, apart from Article 16(1) itself.”*

(Emphasis added)

19. The aforesaid decision was upheld by the Division Bench of this Court in **LPA No.1203-2022** vide order dated 31.01.2024. Furthermore, in **Dinesh Kumar (supra)**, a Co-ordinate Bench of this Court, while relying on the judgement in **Om roj (supra)**, has held as follows:

*“5. In a case, wherein the petitioner, who had applied under EWS category, however despite having more marks than the last selected candidate in the General category, had been not appointed, this Court allowed his petition titled **Om Roj v. Haryana Staff Selection Commission and Others, CWP-2667-2022, on 28.04.2022**, the relevant paras whereof read thus:*

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*6. The aforesaid, when taken up in appeal at the hands of the State by filing **LPA-1203- 2022**, came to be affirmed vide judgment dated 31.01.2024, passed in **LPA-153-2022, Haryana Staff Selection Commission v. Ankita and others**, it being the lead case and the observations therefor read thus:*

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7. The premise in the written statement as also the affidavits dated 24.03.2022, 04.11.2022, 11.01.2024 and 14.05.2024, for ousting the petitioner from service that he had not uploaded the requisite certificate at the time of filing of the application, pertaining to either



the Ex-serviceman or the dependent thereof, paled into insignificance on a glance at the marks obtained by him in the selection process.

8. Pertinently, the plea raised in the petition to drive home his claim to a post under the General category, being the sole aspect thereof, has been not countered in any manner whatsoever, in all probability, owing to its genuinity and legality.

9. Merely that the petitioner being desirous of consideration of his candidacy against the General-Ex-servicemen, being a dependant, opted for the said category, however, even in spite of securing marks way higher than the one appointed in the General category, would by no stretch imply that his right against a post therein, under any circumstances, would get eclipsed. It was imperative upon the respondents themselves to have acceded to his legitimate claim raised via a representation dated 25.05.2017, even prior to he having been appointed on 19.03.2018, to be placed in the select list in the above category.”

(Emphasis added)

20. LPA No.2930-2024 against the decision in **Dinesh Kumar** (*supra*) also stands dismissed vide order dated 25.11.2024. In a similar vein, another Co-ordinate Bench of this Court in **Amritpal Singh** (*supra*) has observed as follows in this regard:

“9. The next aspect, which requires to be now looked into is;

"Whether a candidate belonging to a reserved category, who has filled-up his application for a particular reserved category but marks a wrong sub-category, can he be denied the consideration against the open category seat, which is



mentioned as general category?

Answer to this question has to be given in the negative to the extent that the candidature outrightly cannot be rejected merely because a candidate belongs to a particular category. As per the constitutional provisions and the intent and purpose for which reservation has been provided therein, it is not as if the benefit of the reservation goes to the discredit or disadvantage of a reserved category candidate. The petitioners, admittedly, belong to the scheduled castes category and even if, they are not granted the benefit of reservation because of wrong filling of the sub category, their consideration against the general open seats cannot be denied to them especially when they have been found to have obtained more marks than the last selected and appointed general category candidate. If such an action of the respondents is permitted to be perpetuated, that would amount to violation of Article 14 of the Constitution of India as irrespective of the category to which the candidate belongs, he has right for consideration against the open/general category posts advertised.”

(Emphasis added)

21. Moreover, the reliance placed by learned counsel for the respondents on the judgment of the Division Bench of this Court in ***Pardeep Kumar (supra)*** is wholly misconceived. The relevant factual background of the case, as recorded by the Division Bench, is reproduced below:

“10. Since there is a variance in the facts and issues involved in the case of the writ- petitioner, 'Neha Dhiman', the same shall be dealt with separately. As regards all other writ-petitioners, it transpires,



that they applied pursuant to the advertisement claiming reservation under BC(A)/BC(B) and EWS category. The writ petitioners, who had claimed reservation under BC(A) and BC(B) categories, had not appended their certificates of Non-Creamy Layer as per the requirement mandated under the advertisement for the year 2024-2025. Similarly, the candidates belonging to the EWS category, had also not submitted their EWS certificates in terms of Clause 13 of the advertisement.

11. The Commission, therefore, did not treat the applications of the petitioners as valid applications, however, before rejecting the same, issued a notice on 26.12.2024, the contents whereof read as under:-

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12. The writ petitioners, who had not annexed their respective BC(A), BC(B) and EWS certificates for the year 2024-2025 responded vide their representation by claiming entitlement to the reserved category on the strength of certificates which were issued to them for the previous years. The writ petitioners, moreover, also annexed caste certificates, issued to them after 12.07.2024, along with such representation. These certificates have not been taken into consideration by the Commission as they were issued after 12.07.2024, which was the last date fixed in the advertisement for entertainment of the application.

13. The terms of the advertisement provided that the eligibility of a candidate would be examined only if a candidate cleared the written examination. All the petitioners were allowed to appear in the examination, and they cleared it. As such the eligibility of all the writ petitioners was examined after they cleared the written examination. It was at this stage, that the Commission declared the writ petitioners

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to be "not eligible" since their applications were not found in order. The writ petitioners then approached this Court by filing Writ Petitions, wherein, interim orders were issued permitting the petitioners to appear in the interview. The petitioners consequently appeared in the interview and in terms of the interim orders, posts were kept reserved for them. The Writ Petitions ultimately came to be allowed by the learned Single Bench vide the order impugned in these bunch of Appeals.

14. Learned Single Judge has allowed the claim of the writ petitioners holding them eligible in terms of the advertisement as well as the Office Memorandum issued by the State Government on 22.03.2022."

22. The Division Bench, while allowing the LPA, placed reliance on a *catena* of judgements of the Hon'ble Supreme Court and held that candidates seeking the benefit of reservation under categories such as BC(A), BC(B), or EWS are required to strictly comply with the conditions stipulated in the advertisement, including the submission of valid category certificates pertaining to the relevant financial year on or before the prescribed cut-off date. It was categorically held that certificates issued after the closing date of applications could not be taken into consideration. Consequently, the Division Bench concluded that the writ petitioners therein were not entitled to any relief, having failed to establish their eligibility or rectify the deficiencies in their applications within the stipulated time.

23. However, as rightly pointed out by learned counsel for the petitioners, review applications (**RA-LP-16-2026**) were subsequently filed in the aforesaid case. While disposing of the same, the Division Bench, vide

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order dated 25.05.2026, clarified that candidates who had availed any benefit or relaxation on account of reservation would not be entitled to migrate to the Unreserved Category. At the same time, it was held that candidates who had merely applied under a reserved category, but had not availed any reservation benefit and had secured marks above the cut-off for the Unreserved Category, would be entitled to be considered against the available unreserved vacancies. The relevant observations of the Division Bench are reproduced hereunder:

“1. This bunch of appeals was disposed of vide composite judgment and order dated 03.11.2025 with lead case in LPA-1397-2025. The special leave petition filed against the judgment is also reported to have been dismissed.

***2. It is thereafter that review applications have been filed by the applicants stating that even if the benefit of reservation is not accorded to them, still they are entitled to selection since they have scored marks above the marks secured by the last selected candidate in the unreserved category.** Taking note of such plea, we entertained the review applications vide following orders passed on 09.03.2026:-*

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4. On 12.05.2026, we called upon the respondents to clarify as to whether any of the review applicants had, at any stage, secured any benefit on account of their having applied in the reserved category or not.

5. In response to such directions, an affidavit has been filed by the State submitting that some of the applicants have taken benefit of



reservation in the form of age relaxation or other conditions. The said affidavit is taken on record.

6. Those candidates who have already availed the benefit of reservation at any stage of recruitment would not be entitled for the benefit of migration to unreserved category. However, those review applicants who though have applied in the reserved category, but have not taken any advantage of reservation and have secured marks above the cut off meant for unreserved category, would be accorded consideration in the unreserved category against available seats.

7. The review applications are disposed of accordingly.

8. Those review applicants who are ultimately selected on the basis of their merit in the unreserved category shall be accorded consideration for appointment notionally from the date persons junior to them have been appointed, but actual benefits would be restricted from the date of actual appointment. Appropriate consideration in this regard would be made within a period of 03 months from today.”

(Emphasis added)

24. Additionally, at this juncture, reference must also be made to the judgement rendered by a two-Judge Bench of the Hon’ble Supreme Court in ***Rajat Yadav (supra)***, wherein it was argued that the principle of migration of meritorious reserved category candidates to the Unreserved Category is attracted only at the stage of final selection and preparation of the select list, and not at the intermediate stage of screening or shortlisting through a preliminary examination. In this regard, the Hon’ble Supreme Court categorically held that where a reserved category candidate, without

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availing any concession or relaxation, secures marks higher than the benchmark prescribed for the Unreserved Category in a screening or qualifying examination, such candidate must be treated as having competed in the Unreserved Category itself. In such a situation, no question of migration, adjustment, or shifting from the reserved category to the Unreserved Category arises, as the candidate's entitlement flows solely from merit and not from any reservation benefit. Relevant observations of the Hon'ble Apex Court, speaking through Justice Dipankar Datta, are as follows:

"61. The above observations were followed by His Lordship's observation, found almost at the end of the opinion, that the 'open category is open to all, and the only condition for a candidate to be shown in it is merit, regardless of whether reservation benefit of either type is available to her or him.'". The same have a profound meaning, and needs to be translated into action without being unnecessarily bothered by a term like 'migration'.

*62. Drawing inspiration from the guiding light provided by **Indra Sawhney (supra)** and **Saurav Yadav (supra)**, we hold that the word 'open' connotes nothing but 'open', meaning thereby that vacant posts which are sought to be filled by earmarking it as 'open' do not fall in any category. One does find categories like 'open' or 'unreserved' or 'general' being widely used in course of recruitment drives but they are meant to signify the open/unreserved vacant posts on which any suitable candidate can be appointed, regardless of the caste/tribe/class/gender of such candidate. For all intents and purposes, the vacancies on posts which are notified/advertised as open or unreserved or general, as the terms suggest, are not reserved for any caste/tribe/class/gender and are, thus, open to all*



notwithstanding that a cross-section of society can also compete for appointment on vacant posts which are 'reserved' - vertical or horizontal - as mentioned in the notification/advertisement.

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64. In the context of reservation in public employment, the word 'migration' refers to a candidate claiming benefits or entitlements. The word is used in, at least, two scenarios.

65. Scenario 1 is "Inter-State Reservation Migration" envisaging a portability of reservation benefits. Since we are not concerned with a scenario 1 case, we make no observation except noting two decisions of this Court. The first is **Action Committee v. Union of India (1994) 5 SCC 244** where it has been held by a Constitution Bench that a person belonging to Scheduled Caste/Scheduled Tribe in relation to his original State, of which he is a permanent or ordinary resident, cannot be deemed to be so in relation to any other State on his migration to that State for the purpose of employment, education, etc. The second is **Uttar Pradesh Public Service Commission v. Sanjay Kumar Singh (2003) 7 SCC 657** holding that if a person certified as Scheduled Caste/Scheduled Tribe in one State migrates to another State, then he would not be entitled to the benefit available to Scheduled Caste/Scheduled Tribe in the State to which he has migrated unless he belongs to the Scheduled Caste/Scheduled Tribe in that State.

66. **Scenario 2, with which we are concerned, occurs when there is a "Merit Induced Shift". Although this shift is largely referred to as migration, we find in Saurav Yadav (supra) Hon'ble Ravindra Bhat, J. explaining the term as adjustment of a reserve category candidate in the unreserved category based on his/her merit.**



67. Here, we do not see reason to agree with Mr. Gupta that any shift or adjustment, or even migration as he contends, as such is required where a candidate, who is also otherwise entitled to compete and be selected for a reserved vacant post, happens to outscore, outperform and outshine not only reserved candidates but also general candidates and figures at the top of the list of successful candidates prepared after a qualifying/preliminary examination (for screening/shortlisting) solely by dint of the marks secured by him/her in such examination (without availing any concession/relaxation) thereby entitling him/her to participate in the second tier of a further suitability test. Such a meritorious candidate, notwithstanding that he/she belongs to a reserved category, be it Scheduled Caste or Scheduled Tribe or Other Backward Class, must of necessity (arising out of the concept of equality before law and equal protection of the laws in Article 14, and extended to Article 16 in matters of public employment) be treated as a candidate who has competed for the 'unreserved' category and not the 'reserved' category, thereby obviating the need for any 'migration' or, so to say, shift or adjustment.

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70. Reverting to the appeals under consideration, we see no reason to say that there has been a 'migration', in the sense of either an adjustment or a shift being made. At the time of screening/shortlisting of candidates based on their performance in the qualifying examination and even thereafter, initially all the aspiring candidates including the reserved candidates should be seen as General/Open candidates. If such a candidate, notwithstanding that he/she belongs to a reserved category maintains excellence in standard even in the second tier of examination (typewriting test, in this case), he/she



would cease to be treated as a candidate belonging to any category and entitled to treatment as a candidate seeking appointment on a vacant post which is categorised as General/Open. Should there be a decline in performance in the second tier test pushing out the candidate from the zone of consideration for appointment on posts which are open or unreserved or general but not beyond the zone for the reserved vacant posts, it is necessary to regard him/her as a candidate belonging to the reserved category to which he/she belongs, thereby paving the way for him/her to stake a claim for consideration for appointment on an appropriate reserved vacant post.

71. In the milieu of facts, none of the petitioning candidates has been shown to have availed of any concession/relaxation. No law - either rule or executive instruction - has been shown which prevented the High Court from treating the reserved candidates as General/Open candidates once it transpired that they outshone the latter. Question of any migration or deriving twin benefits of migration did not and could not arise in the circumstances.

72. If we accept the proposition advanced by the appellants, it would not only have a detrimental impact on candidates from the disadvantaged sections but also erode the principles enshrined in the Constitution.”

(Emphasis added)

25. Applying the settled legal position to the facts of the present case, the petitioners, despite having applied under their respective reserved categories, have not availed any relaxation or concession in terms of age or qualifications at any stage of the selection process. Admittedly, they have secured higher marks than the last selected candidate in the

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General/Unreserved category. The rejection of their candidature under the reserved category merely on the ground that their reservation certificates were issued after the cut-off date cannot operate as a bar to their consideration against unreserved posts. The denial of consideration under the General category in such circumstances is arbitrary, illegal, and directly contrary to the consistent line of precedent established by this Court as well as the Hon'ble Apex Court. Crucially, the Division Bench of this Court in the review order dated 25.05.2026 passed in **RA-LP-16-2026** has explicitly clarified that even where reservation benefits are declined due to late or invalid certificates, review applicants who have not taken any advantage of reservation and have scored marks above the cut-off prescribed for the Unreserved category are entitled to be accorded consideration against available unreserved vacancies. Learned counsel for the respondents could not meaningfully controvert or displace the reliance placed on the aforesaid authoritative pronouncements.

26. Furthermore, this Court finds no merit in the argument advanced by the learned counsel for the respondents that migration or adjustment of the petitioners from the reserved category to the Unreserved category can only take place at the final stage of selection. In view of the explicit law laid down by the Hon'ble Supreme Court in ***Rajat Yadav (supra)***, a candidate belonging to a reserved category who, without availing any concession or relaxation, secures marks higher than the benchmark prescribed for the Unreserved category in a screening or intermediate stage

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must be treated as competing in the Unreserved category itself by virtue of pure merit. In such a scenario, there is no requirement for any formal “migration” or “adjustment” at a later stage, as the candidate’s entitlement to compete in the Open category flows directly from the constitutional guarantees under Articles 14 and 16. Notably, learned counsel for the respondents failed to point out any service rules or terms of the advertisement that explicitly prohibit such consideration for candidates who fulfill all standards applicable to the Unreserved category.

27. This Court also finds the argument raised by the respondent-Commission regarding prejudice to 38 non-litigant candidates whose candidature was similarly rejected to be thoroughly unpersuasive. A constitutional right based on open merit cannot be eclipsed or denied to diligent litigants merely because other affected individuals chose not to assert their legal remedies before a Court of law. Equality under Article 14 cannot be invoked in a negative sense to perpetuate an illegal order or to deny a meritorious candidate their rightful place in the open selection list.

CONCLUSION

28. In view of the foregoing discussion, the present petition is allowed in the following terms:

- a. The impugned speaking order dated 16.09.2025 (Annexure P-1) passed by Respondent No. 3 is hereby quashed and set aside.
- b. The respondents are directed to consider the claim of the petitioners for appointment against the General/Unreserved

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Category posts of Post Graduate Teachers (PGTs) in their respective subjects pursuant to Advertisements No. 18 to 37 of 2024 (Annexure P-2), strictly on the basis of their merit.

- c. The petitioners, if found eligible and meritorious in the Unreserved category, shall be offered appointment with consequential notional benefits. However, actual monetary benefits shall be given to the petitioners only from the date of their actual joining. The respondents are directed to complete the aforesaid exercise within a period of six weeks from the date of receipt of a certified copy of this order.

29. Pending miscellaneous applications, if any, shall also stand disposed of.

(HARPREET SINGH BRAR)
JUDGE

05.08.2026*P.C.*

Whether speaking/reasoned. : Yes/No

Whether Reportable : Yes/No