



**IN THE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION**

WRIT PETITION (C) NO. 123 OF 2013

VINIT KUMAR & ORS.

.... PETITIONERS

VERSUS

**STATE OF U.P. THROUGH
SECRETARY & ORS.**

.... RESPONDENTS

J U D G M E N T

Alok Aradhe, J.

1. At the heart of the present proceedings lies a challenge to a selection process which commenced in the year 2011 with an advertisement issued on 04.03.2011 by the Uttar Pradesh Power Corporation Limited ('UPPCL') for filling up 2974 posts of Technician Grade-2 (Trainee) Electrical. The petitioners, being unsuccessful candidates, in this writ petition under Article 32 of the Constitution of India, assail the revised result dated 20.01.2013 and the consequential appointments and seek, among other reliefs, a fresh exercise of selection and an investigation by the Central Bureau of Investigation ('CBI'). In order to appreciate the grievance of the petitioners, relevant facts need mention which are stated *infra*.

FACTS

2. An advertisement was issued by UPPCL, Lucknow inviting applications from eligible candidates for filling up 2974 posts of Technician Grade-2 (Trainee) Electrical in Electricity Distribution Corporations under UPPCL. Of the advertised posts so advertised, 1778 were earmarked for candidates belonging to General Category, while 353, 128 and 715 posts respectively stood reserved for candidates belonging to the Scheduled Castes, Scheduled Tribes and the Other Backward Classes. The advertisement prescribed the following eligibility criteria:
 - (i) A two-year National/State-level Trade certificate in Electrician Trade;
 - (ii) High School or equivalent examination of Secondary Education Board, Uttar Pradesh with Science and Mathematics as subjects; and
 - (iii) A certificate of a Course of Computer Concept issued by the Department of Electronics and Accreditation of Computer Courses (DOEACC Certificate), to be produced at the time of interview.
3. A written examination was conducted on 07.08.2011, in which 13,576 candidates participated; of these, 6288 candidates, including the petitioners, qualified for interview. The interviews

of the successful candidates were held between 28.11.2011 and 28.12.2011. The result of the selection to the post in question was declared on 21.05.2012. A number of candidates who appeared at the interview were, however, unable to produce their DOEACC Certificates at that stage. Upon representations made by such candidates seeking extension of time for production of the certificates, UPPCL issued press notices extending the deadline from time to time, finally up to 31.07.2012, with the caveat that failure to submit would result in automatic cancellation of the candidate's selection.

- 4.** Aggrieved by the selection notified on 21.05.2012, the unsuccessful candidates, including the present petitioners, filed a batch of writ petitions before the High Court, principally contending that candidates who had furnished DOEACC Certificates, between 28.12.2011 and 31.03.2012, as also candidates whose results had been withheld for non-furnishing of DOEACC Certificates, had been wrongly included in the select list. By order dated 30.08.2012, the learned Single Judge dismissed the writ petitions.
- 5.** The unsuccessful candidates carried the matter in an intra court appeal. By judgment dated 26.09.2012, the Division Bench of the High Court held that relaxation of the prescribed rules, was

impermissible where the advertisement itself made no provision for such relaxation, and that only those candidates who had submitted their DOEACC Certificates prior to 31.03.2012 were entitled to be included in the select list. The Division Bench, accordingly, directed the respondents to delete the names of candidates who had submitted their DOEACC Certificates after 31.03.2012 and to declare the result afresh.

- 6.** In compliance with the directions issued by the Division Bench, the respondents issued a fresh result of selection on 20.01.2013, followed by a list of appointment-cum-allotment on 30.01.2013. The present writ petition, filed on 19.02.2013. The present petition came to be tagged with a batch of Special Leave Petitions in which the correctness of the order of the Division Bench was itself under challenge.
- 7.** In the said batch of Special Leave Petitions, as also in the present writ petition, this Court, by order dated 14.08.2018, noted that as on 31.03.2012 only about 1509 candidates possessed DOEACC Certificates, whereas admittedly 2800 candidates had been declared successful. The respondents were directed to file a list of candidates who had submitted such certificates by 31.03.2012, indicating in respect of the remaining candidates, more than 1500 in number, the dates on which their certificates

were filed. In compliance with the said direction, the select list was filed on 23.10.2018 before a Bench of this Court.

8. By order dated 30.01.2019, a two-Judge Bench of this Court recorded the ground on which relief was sought in the present writ petition, namely, that the petitioners stood higher in merit than the persons who have been selected and appointed, and that this contention had not been met in the counter affidavit filed by UPPCL. UPPCL was granted four weeks' time to file counter affidavit setting out particulars of marks and ranking of the petitioners and, should their claim of higher marks be found correct, the reasons for their non selection and non-appointment to the post in question. The present writ petition was directed to be listed after eight weeks, while arguments in the connected Special Leave Petitions were heard and judgment was reserved.
9. By a common judgment dated 22.02.2019 in **Sanjay K. Dixit & Ors. v. State of Uttar Pradesh & Ors.**¹, this Court upheld the judgment of the Division Bench and dismissed the Special Leave Petitions. It is in this factual background that the present writ petition falls for consideration.

¹ (2019) 17 SCC 373

SUBMISSIONS

- 10.** Mr. Prashant Bhushan, learned counsel for the petitioners submitted that only the first extension of time for submitting the DOEACC Certificates was valid, and that the subsequent extensions were unauthorised. He submitted further that, though only 715 out of 2974 advertised posts were earmarked for the OBC Category, as many as 1527 candidates came to be selected in that category, in blatant violation of the reservation policy. It was further contended that 2293 candidates had submitted their certificates within time, however, 2836 candidates stood selected. It was pointed out that, pursuant to the order dated 14.08.2018, UPPCL had filed a list before this Court on 23.10.2018, which disclosed several mismatches of names and roll numbers as against the list published by the UPPCL on its website on 30.01.2013.
- 11.** It was further submitted that certain candidates who had scored less than the prescribed cut-off had nevertheless been appointed. Learned counsel accordingly prayed that the revised result dated 20.01.2013 and the consequential appointment-cum-allotment list dated 30.01.2013 be quashed, and that a direction be issued to the respondents for a fresh revision of the select list. It was also prayed that an independent investigation by the CBI be

directed into the alleged manipulation of records and appointments. In support of the aforesaid submissions, reliance has been placed on decisions of this Court².

- 12.** Mr. Sunil Kumar Jain, learned counsel for the respondents, submitted that the petitioners were guilty of suppression of a material fact, namely, that petitioner nos. 8 to 18 had earlier filed a writ petition that is Writ Petition. No. 2749 of 2012 before the Lucknow Bench of the Allahabad High Court, seeking identical relief, which petition was disposed of on 09.11.2012 in terms of the judgment dated 26.09.2012 of the Division Bench. Therefore, it was contended that the present writ petition, was on this ground alone not maintainable. It was further submitted that petition is liable to be dismissed for non-joinder of necessary parties. It was further submitted that the petitioners could not be permitted to agitate new issues in the present writ petition. It was pointed out that petitioners, belonging to the General Category, for which the cut-off stood at 98.25 marks, could not compare their claim with that of candidates selected under the horizontal sub-categories such as dependants of freedom fighters and ex-servicemen, for whom lower cut-offs of 65.75 and 80.25

² **State of West Bengal v. Baisakhi Bhattacharyya (Chatterjee) & Ors.** 2025 SCC OnLine SC 719; **Manoj Kumar v. Union of India & Ors., (2024) 3 SCC 563** and **Dinesh Kumar Kashyap v. South East Central Railway & Ors., (2019) 12 SCC 798**

respectively had been prescribed. The petitioners secured less than 98.25 marks which was prescribed for General Category and therefore, their names did not appear in the select list issued on 20.01.2013.

- 13.** It was submitted that the contention that selection of candidates belonging to OBC category had exceeded the seats reserved for them in the advertisement, in violation of the 50% ceiling, is equally unmerited. It was pointed out that a candidate who had applied in the reserved category and scored marks higher than the last general category candidate is entitled to be selected in the open category and such selection is not to be reckoned while calculating the percentage of reservation. In support of the aforesaid contentions, reliance has been placed on the decisions of this Court³.
- 14.** We have considered the submissions made by learned counsel for the parties and have perused the record.
- 15.** We are of the view, that the petitioners are not entitled to any relief in this writ petition for the reasons which we record hereinafter.

³ J.S. Yadav v. State of Uttar Pradesh & Anr., (2011) 6 SCC 570; Union of India & Anr. v. Satya Prakash & Ors., (2006) 4 SCC 550; Ritesh R. Sah v. Dr. Y.L. Yamul & Ors., (1996) 3 SCC 253 and R.K. Sabharwal & Ors., v. State of Punjab & Ors., (1995) 2 SCC 745

REASONS

16. Firstly, it deserves notice that in compliance with the judgment of the Division Bench, UPPCL issued a fresh select list on 20.01.2013. Aggrieved by the judgment of the Division Bench dated 26.09.2012, the unsuccessful candidates filed Special Leave Petitions. On 19.02.2013, the petitioners filed the present writ petition. The aforesaid Special Leave Petitions and the instant writ petition were tagged together, and a common order dated 14.08.2018 came to be passed, which reads as under:

“W.P. (C) No. 123/2013

It appears that about 1509 candidates had the necessary DOEACC certificates on 31.03.2012. Admittedly, about 2800 candidates were declared successful.

In the circumstances, it is necessary to have the details of the candidates who had submitted DOEACC certificates on the aforesaid date.

We accordingly, direct respondent Nos. 2 and 3 to submit a list of candidates along with their names who had submitted DOEACC certificates on 31.03.2012. The list shall also indicate the date on which the candidates who are more than 1500 in number file the DOEACC certificates along with their names.

The entire list shall clearly indicate the date on which the selected candidates file their DOEACC certificates. The aforesaid list may be filed within a period of eight weeks.

List the matters after eight weeks.

Learned counsel for petitioner No. 10 seeks permission to withdraw this petition qua petitioner No. 10.

Permission sought for is granted. The special leave petition is dismissed as withdrawn qua petitioner No. 10.”

- 17.** In compliance with the aforesaid order, the UPPCL filed a list of selected candidates before a Bench of this Court on 23.10.2018. Thereafter, on 30.01.2019, the arguments in the Special Leave Petitions and instant writ petition were heard. The order dated 30.01.2019 is extracted below for the facility of reference:

“The issue in this petition pertains to selection and appointment to the post of Technician Grade II (Apprentice) Electrical in Uttar Pradesh Power Corporation Ltd. (U.P.P.C) pursuant to advertisement on 10.3.2011. The petitioners seek relief of setting aside the result dated 21.1.2013 and the list of appointment/allotment dated 30.1.2013. The grounds on which the relief is sought is that they are higher in merit than the persons who have been selected and appointed. Though the counter affidavit has been filed by the Corporation, this contention of the petitioner has not been dealt with.

U.P.P.C. is permitted to file counter affidavit within four weeks giving the particulars of the marks and ranking of the writ petitioners and if the statement made on behalf of the petitioners that they are higher in merit is true, the reason for their not being selected and appointed.

Two weeks time is granted to file rejoinder, if any.

List after eight weeks.

Rest of the matters:

Arguments concluded.

Judgment reserved.”

- 18.** It is thus evident that, before a Bench of this Court, the petitioners themselves confined the ground of relief to their claim of higher merit vis-a vis the selected and appointed candidates, and that the said contention had not been dealt with in the counter affidavit. Notably, even after the select list came to be filed on 23.10.2018, no contention regarding irregularities and discrepancies in that list was urged on behalf of the petitioners. It was on this basis, and this basis alone, that the Court directed UPPCL to file a counter affidavit to explaining why the petitioners, if indeed higher in merit, had not been selected and appointed.
- 19.** It is trite law that an order is effective *inter partes* and shall bind them until it is successfully avoided or challenged in a higher forum⁴. The interim order dated 30.01.2019 accordingly binds the petitioners, and the scope of scrutiny in this writ petition stands confined to the contention of the petitioners as recorded therein.

⁴ State of Kerala v. M.K. Kunhikannan Nambiar Manjeri Manikoth, Naduvil (D) & Ors., (1996) 1 SCC 435

20. The respondents, in their counter affidavit dated 22.02.2019 filed in compliance of the order dated 30.01.2019, have taken a categorical stand that the petitioners did not secure the cut-off marks prescribed for the General Category and were, for that reason, therefore, not selected. This stand was specifically pressed by learned counsel for respondents in the course of his submissions but has been controverted neither in the written submissions filed on behalf of the petitioners nor in the oral submissions made before us. It follows, axiomatically, that no candidate less meritorious than the petitioners has been selected.

21. Secondly, the respondents have taken a specific stand, in paragraph 38 of the counter affidavit filed on 30.08.2013, that petitioners nos. 8 to 18 had filed a Writ Petition No. 2749 of 2013 before the Lucknow Bench of the Allahabad High Court seeking the same relief and therefore, the instant writ petition is not maintainable. The said writ petition was disposed on 09.11.2012 in terms of the judgment dated 26.09.2012 of the Division Bench. This fact, that petitioner nos. 8 to 18 were parties to Writ Petition No. 2749 of 2013 finds no mention in the present writ petition, nor have the petitioners disclosed that said writ petition was disposed of on 09.11.2012, or whether that order was challenged

by way Special Leave Petition before this Court. This non-disclosure amounts to suppression of material facts, and such conduct, without anything more, disentitles the petitioners to any relief.

22. Thirdly, the selected candidates have long since been issued appointment letters and have, for a considerable length of time, been working on the posts in question. At this point of time, particularly in their absence before us, their appointments cannot be disturbed.

23. Fourthly, a Constitution Bench of this Court in **State of West Bengal & Ors. v. Committee for Protection of Democratic Rights, West Bengal & Ors.**⁵ held that despite wide powers conferred by Articles 32 and 226 of the Constitution, the Court must bear in mind the self-imposed limitations on exercise of such constitutional powers. It was held that direction to CBI to conduct investigation is not to be issued as matter of routine or merely because a party has levelled some allegations on local police. Similar view has been taken by a two-Judge bench of this Court in **Himanshu Kumar and Ors. v. State of Chhattisgarh and Ors**⁶. Another two-Judge Bench of this Court in **Legislative**

⁵ (2010) 3 SCC 571

⁶ (2023) 12 SCC 592

Council U.P. Lucknow and Ors. v. Sushil Kumar and Ors.⁷ held that while issuing directions to CBI, to hold an investigation, pleadings and material sufficient for CBI inquiry are required to be looked into. In the instant case, the petitioners have neither lodged a first information report nor had made any allegations against the local police. No averments have been made in the writ petition disclosing the basis for direction for an enquiry by CBI. Therefore, we are not inclined to accede to the said prayer made by the petitioners.

CONCLUSION

24. For the foregoing reasons, we do not find any merit in this writ petition. The same fails and is hereby dismissed. There shall be no order as to costs. Pending applications, if any, stand disposed of.

.....**J.**
[PAMIDIGHANTAM SRI NARASIMHA]

.....**J.**
[ALOK ARADHE]

**NEW DELHI;
SEPTEMBER 16, 2026.**

⁷ 2025 INSC 1241