

Reserved



2026:AHC-LKO:65163

**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

WRIT - A No. - 7914 of 2026

Yogendra Singh Solanki and another

.....Petitioner(s)

Versus

State of U.P. Thru. Addl. Chief Secy. Agriculture Deptt. Lko. and 2 others

.....Respondent(s)

Counsel for Petitioner(s)	: Alok Mishra,
Counsel for Respondent(s)	: C.S.C., Utsav Mishra

Court No. - 17

HON'BLE RAJEEV SINGH, J.

1. Heard Sri Alok Mishra, learned counsel for the petitioners, Sri Gaurav Mehrotra, Senior Advocate assisted by Sri Utsav Mishra, learned counsel for the respondent-U.P.S.S.S.C. and Sri Ram Pratap Singh Chauhan, learned Addl. Chief Standing Counsel for the State.

2. The present petition has been filed with the following prayers :-

(i) to issue a writ, order or direction in the nature of Certiorari quashing the impugned advertisement dated 04.03.2024 issued by the Uttar Pradesh Subordinate Services Selection Commission as contained in Annexure No. 2 to this writ petition, to the extent the same stipulates clause 11.13 that all the female candidates will be placed in their vertical category to which they belong, being in violation of Article 14 and 16 of the Constitution of India;

(ii) to issue a writ, order or direction in the nature of Certiorari quashing the impugned cut off marks issued by the Uttar Pradesh Subordinate Services Selection Commission vide notification dated 23.06.2026 as well as impugned select list dated 23.06.2026, as contained in Annexure No. 1 to this writ petition, to the extent the same did not include the candidatures / roll numbers of the petitioners therein;

(iii) to issue a writ, order or direction in the nature of Mandamus commanding the respondents to not to give effect to the impugned advertisement dated 04.03.2024 issued by the Uttar Pradesh Subordinate Services Selection Commission to the extent as aforesaid as well as not to give effect to the cut off marks issued by the Uttar Pradesh Subordinate Services Selection Commission vide notification dated 23.06.2026 as well as impugned select list dated 23.06.2026, to the extent the same did not include the candidatures / roll numbers of the petitioners therein;

(iv) to issue a writ, order or direction in the nature of Mandamus commanding the respondents specially the Uttar Pradesh Subordinate Services Selection Commission to consider the candidature of the pursuance of the impugned petitioners in advertisement dated 04.03.2025 after re-drawing the merit list of main examination on the basis of the correct / proper application of horizontal reservation specially with respect to female candidates as has been settled by the Hon'ble Apex Court on the subject, in catena of decisions;

(v) to issue a writ, order or direction in the nature of Mandamus commanding the respondents specially respondent no. 2 i.e. Director, Agriculture, U.P. not to issue any appointment letter for the post of Technical Assistant Group- C in pursuance of the impugned select list unless the result of the main /written examination for the said selection is revisited / redrawn, as aforesaid keeping in view catena of decisions by the Hon'ble Supreme Court in the matter of providing horizontal reservation; or in alternative to issue a writ, order or direction in the nature of Mandamus commanding the respondents to keep two posts of Technical Assistant Group- C, vacant in the OBC category for consideration of the claims of the petitioners, during the pendency of the writ petition;

3. Learned counsel for the petitioners submitted that an advertisement dated 04.03.2024 for the selection of 3,446 posts of Technical Assistant, Group-C, was published by respondent no. 3,

pursuant to which both the petitioners applied and qualified in the PET examination. Having qualified in the PET examination, they applied for the post of Technical Assistant, Group-C, pursuant to the advertisement in question. Thereafter, they also succeeded in the mains examination for the aforesaid posts and secured 55 and 54.75 marks, respectively, in the OBC category. However, the impugned cut-off marks prescribed by the Commission on 23.06.2026 are 55.25 marks. He further submitted that the main select list of 3446 candidates was published on 23.06.2026 mentioning 689 female candidates to be appointed in the main select list without disclosing their category. The impugned cut-off marks declared by the Commission, wherein 55.25 marks are declared for OBC category in vertical reservation and 41.75 marks have been declared for female candidate in the horizontal reservation. It is further submitted that 629 posts are reserved for OBC and 126 posts are allotted to female candidates as per 20% quota for female but in the impugned select list, category wise number of selected female candidates has not been mentioned, which is complete violation of law of horizontal reservation.

3.1. Learned counsel for the petitioners submitted that in the Direct Recruitment-2025 of Sub-Inspector (Civil Police) each category, i.e., Unreserved, EWS, OBC, SC as well as ST and the posts were also segregated in these categories belonging to female candidates but the said pattern was not adopted in the selection in question. He also submitted that excessive female candidates, i.e. 315 have been selected under the category of OBC only after having obtaining more than cut-off marks fixed by the Commission, i.e., 41.75 marks has resulted into ouster of the petitioners despite having obtained 55 marks and 54.75 marks, which is wholly illegal, arbitrary and discriminatory in nature and also violation of Articles 14 and 16 of the Constitution of India. He next submitted that the horizontal reservation has completely been misapplied by the Commission in the aforesaid selection while placing a reliance on the Government Order dated 26.02.1999 and thereby justifying and accepting that only to achieve 20% of the total number of posts i.e. 3446

posts of Technical Assistant Group-C, which comes at around 689, a vague and a mechanical stand has been taken by the UPSSSC that 689 posts of females are filled in without elaborating or pointing it out that once in the OBC category, 20% seats already filled up by the meritorious OBC female candidates, then how it was open for the Commission to have filled up the female posts again in the OBC category in the garb of female reservation, while lowering down the cut-off marks to 41.75, whereas the law is settled that if in the OBC category, the female candidate are already duly represented to the 20% of their total number of posts, then no further selection in the garb of horizontal reservation, while lowering down the merits is required.

3.2. Submissions of learned counsel for the petitioners is that the State Government, while relying upon the Government Order dated 26.02.1999, cannot resort to two different method of selection for applying reservation for female. He also submitted that the Director (Agriculture), U.P. has issued letters dated 23.08.2026 apprising for issuance of appointment letters to these newly selected Technical Assistant Group-C, but still joining of the selected candidates is underway. He relied on the decision of Hon'ble Supreme Court in the case of **Sadhna Singh Dangi & Ors. Vs. Pinki Asati & Ors.** reported in **(2022) 12 SCC 401** and submitted that even while applying horizontal reservation, the merit must be given precedence and if the candidates, who belongs to SC/ST and OBC have secured higher marks or are more meritorious, they must be considered against the seats meant for undeserved candidates. He next submitted that there would be no distinction between vertical and horizontal reservations, when it comes to the basic idea that even the candidates belonging to the reserved categories can as well as stake a claim to seats in unreserved categories, if their merit position entitle them to do so. He further relied on the decision of Hon'ble Supreme Court in the case of **Deep Chand Vs. State of U.P. & Ors.** reported in **A.I.R. (1959) SC 648**, **Rakesh Vij Vs. Dr. Raminder Pal Singh Sethi** reported in **AIR (2005) SC 3593** and

submitted that no law can be made contravening the provisions of Part-III of the Constitution of India and if there is anything then that will be nullity from its inception, therefore, indulgence of this Court is necessary.

4. Learned counsel for the respondent vehemently opposed the prayer of the petitioners and submitted that advertisement in question dated 04.03.2024 was issued on the requisition of State authorities dated 03.01.2023. Clause 11.13 of the aforesaid advertisement stipulates that all the female candidates will be placed in their vertical category to which they belong in accordance with the provisions of Government Order dated 26.02.1999, which provides the manner, in which, 20% reservation to female candidates is applied. Clause 2 of the aforesaid government order also provides that the reservation for women must be horizontal in nature, i.e., to say that the category for which a women has been selected. The aforesaid Government Order dated 26.02.1999 has further been clarified by the State Government vide Government Order dated 22.10.2001 and its applicability to the horizontal reservation being made applicable in the State of Uttar Pradesh was already dealt by the Division Bench of this Court vide its order dated 06.07.2022 passed in **Special Appeal Defective No.275 of 2020 'State of U.P. & Ors. Vs. Lal Pratap Singh & Anr.** In the aforesaid Special Appeal it is held that Government Order dated 22.10.2001 categorically provides that in horizontal reservation, in case, a candidate gets selected as special category candidate, he/she shall be placed in the merit list prepared for providing reservation to the reserved category candidates (SC/ST/OBC) or in the list prepared for making selection from amongst the unreserved category candidates. Such placement would necessarily require adjustment of special category candidates in the merit list with the resultant that the special category candidate selected/appointed shall be placed in the merit list i.e. the corresponding category SC/ST/OBC/Open, which will further result in ouster of equal number of candidates belonging to the category concerned from the merit of concerned category. For ease of perusal and kind consideration of this

Hon'ble Court the relevant extract of the judgement and order dated 06.07.2022 passed in **Special Appeal Defective No.275 of 2020** (supra) is reproduced as under :-

“16. Thus, as per afore quoted provisions of the Act 1993, 2% of vacancies are reserved for DFF. Sub section 3 of section 3 of the Act, 1993 provides that the candidates selected against the vacancies reserved under sub section 1 are to be placed in their respective categories to which they belong. Sub section 3 further clarifies, by giving an example, as to how such reservation is to be applied, according to which, if a selected person belongs to Scheduled Castes category and gets selected as DFF, he will be placed in the quota meant for Scheduled Castes category by making necessary adjustments. Similarly, a candidate belonging to other reserved categories i.e, the category of Scheduled Tribes or Other Backward Classes, if gets selected as DFF, he is to be placed in the quota meant for Scheduled Tribe and Other Backward Classes. It is also relevant that sub section 3 of section 3 of the Act, 1993 further makes it clear that in case a candidate selected by providing him reservation under the Act, 1993 belongs to open category, he is to be placed in that category by making necessary adjustments. Thus, in our considered opinion, the scheme of Section 3 of the Act, 1993 is that firstly selection of the candidates in the reserved category of DFF and other special categories in terms of 1993 Act is to be made and thereafter such selected candidates are to be placed in the merit/select lists belonging to the particular category of SC/ST/OBC/Open to which they belong by making necessary adjustments. For clarity, we may give an example. In a situation where a Scheduled Caste category candidate claims reservation as DFF in terms of the scheme of Section 3 of the Act, 1993, his selection shall be made as DFF first and thereafter he shall be adjusted in the merit list of the reserved category candidates belonging to Schedule Castes by removing the last selected candidate in the said list.

17. It is settled legal principle that reservation meant for SC/ST/OBC category candidates is to be applied vertically and the reservation meant for special category candidates in terms of the Act, 1993 is to be applied horizontally. That means horizontal reservation is to be applied across vertical reservation. To further clarify as to how horizontal reservation available under the Act, 1993 is to be applied, the State Government has

issued a Government Order dated 22.10.2001 wherein it has categorically been provided that such reservation shall be horizontal. The said Government Order further provides that in case a candidate gets selected in the special category in terms of the Act, 1993 and he belongs to Scheduled Castes category then he shall be adjusted against the quota meant for Scheduled Castes after making necessary adjustments. Similarly, if such a candidate belongs to reserved category of Scheduled Tribe, he shall be adjusted against the quota meant for Scheduled Tribe category candidates. Similar will be the situation in respect of a candidate belonging to Other Backward Classes. The Government Order further provides that in case any candidate belongs to open category (unreserved) and gets selected as a special category candidate as per the Act, 1993 then he shall be placed in the merit list of the open category candidates by making necessary adjustment. The relevant paragraph of the Government Order dated 22.10.2001 is quoted as under:

उपर्युक्त आरक्षण हारिजन्टल होगा। अर्थात् यदि उपर्युक्त वर्गों में से किसी वर्ग का चयनित अभ्यर्थी अनुसूचित जाति का हो तो उसे अनुसूचित जाति के कोटा में यथा आवश्यक समायोजन करते हुए, रखा जायेगा। यदि वह अभ्यर्थी अन्य पिछड़ा वर्ग का हो तो उसे अन्य पिछड़ा वर्ग में यथा आवश्यक समायोजन करके, रखा जायेगा यदि वह खुली प्रतिया गिता वाली कटेगरी अर्थात् सामान्य वर्ग का हो तो उसे उस वर्ग में यथा आवश्यक समायोजन करके, रखा जायेगा।

यदि कोई रिक्ति उपयुक्त अभ्यर्थी की अनुपलब्धता के कारण बिना भरी रह जाती है तो उसे आगामी भर्ती के लिए अग्रनीत किया जायेगा।

18. As to how the adjustment of such candidates is to be made, has already been noticed above. We, at the costs of reiteration, further observe that once a candidate gets selected as a special category candidate in terms of the Act 1993, he is to be placed in the merit list prepared for providing reservation to the reserved category candidates (SC/ST/OBC) or in the list prepared for making selection/appointment from amongst the open category candidates. Such placement would necessarily require adjustment of special category candidates in the merit lists with the resultant that the special category candidates selected/appointed shall be placed in the merit/select list of the candidates of the corresponding category i.e. SC/ST/OBC/Open which will further result in ouster of equal number of candidates

belonging to the category concerned from the merit list of the concerned category.

23. The proper course would have been that the State authorities ought to have firstly prepared separate category-wise merit lists comprising of the candidates belonging to Scheduled Castes, Scheduled Tribes. Other Backward Classes and open category Simultaneous with preparation of separate category-wise merit lists, a combined merit list of candidates of all the categories (SC/ST/OBC/Open) ought to have been prepared and the candidates claiming their appointments as DFF falling in this combined merit list ought to have been adjusted i.e. placed in the separate category-wise list already prepared. In this process, if any candidate claiming reservation under the Act, 1993 gets selected, he would be adjusted against the social category to which he belongs i.e. the category either of Scheduled Castes or Scheduled Tribes or Other Backward Classes or Open Category. Resultantly, candidates equal in number to the number of candidates claiming appointment as DFF who are adjusted in the separate merit lists, will have to be removed from the separate merit lists/select lists prepared category-wise for providing vertical reservation. In this case, there is nothing on record suggesting that any candidate belonging to reserved category of Scheduled Castes, Scheduled Tribes and Other Backward Classes had claimed his appointment as DFF. As per the records available before us, there were four candidates belonging to unreserved category who claimed their appointment as DFF and since in our opinion 3 vacancies were legally to be filled in from amongst the candidates claiming their appointment as DFF, 2 more such appointments as DFF ought to have been made. We have already noticed that only 01 (one) appointment of candidate belonging to unreserved category as DFF has been made.

4.1. Learned counsel for the respondent next submitted that Full Bench of this Court vide Judgment and Order dated 16.07.2019 passed in **Writ-A No. 40695 of 2005 (Ajay Kumar Vs. State of U.P. and Others)** had considered the issue as to whether reservation for women has to be spread evenly for the representation of female category candidates to the extent of a minimum 20% in each category. In the aforesaid case, Full Bench has held that the purpose of women reservation, the method of

compartmentalization or proportionate division of seats reserved for women (horizontal reservation) to the extent of 20% in the social reserved category is the most preferred method and shall be applied uniformly as a rule in all selections in the State of U.P. under the scheme of the Government Order dated 26.02.1999. He further submitted that Hon'ble Supreme Court in the case of **Saurav Yadav & Ors. Vs. State of U.P. & Ors.** reported in **(2021) 4 SCC 542** has held that law laid down by the Full Bench in the case of Ajay Kumar (supra) is not a good law. In the instant matter, the Commission has followed the Government Order dated 26.02.1999 & 22.10.2001 for extending the horizontal reservation for women candidates to the extent of 20% of vacancies as a whole. The Commission has declared the final result on 23.06.2026, in which a total of 689 women candidates have been selected.

4.2. It is submitted by the learned counsel for the respondent that women candidates belonging to reserved category who have secured more marks than the cut off marks in the unreserved category have been selected under the unreserved category and the purpose of providing horizontal reservation to women candidates as per the Government Order dated 26.02.1999 is to ensure that a minimum of 20% women candidates are selected in the public services, whereas there is no restriction on the upper limit. The Horizontal Reservation for women candidates in a beneficial legislation and the Hon'ble Supreme Court of India as also this Hon'ble Court have been pleased to hold that the beneficial legislation/subordinate legislation are required to be liberally construed to extend benefit to the maximum.

4.3. Submissions of learned counsel for the respondent is that in case petitioners were aggrieved with the Clause 11.13 of the advertisement dated 04.03.2024, then they ought to have challenged the aforesaid Government Order dated 26.02.1999, which has not been done in the instant matter, therefore, in absence of any challenge to the Government Order dated 26.02.1999, the Commission has followed the aforesaid

Government Order while implementing horizontal reservation to women. He also relied on the decision of Hon'ble Supreme Court in the case of **Rajasthan High court & Anr. Vs. Rajat Yadav & Ors., 2025 SCC Online SC 2931; Union of India Vs. S. Vinodh Kumar, (2007) 8 SCC 100; Tajvir Singh Sodhi Vs. State of Jammu & Kashmir, (2023) 17 SCC 147** and submitted that once the petitioners have been declared unsuccessful, they cannot, at this stage, challenge the selection process or the conditions stipulated in the advertisement.

4.4. Learned counsel for the respondent also submitted that final result was issued on 23.06.2026, in which, appointment letters to the selected candidates have been issued on 25.08.2026 but the selected candidates have not been arrayed as respondents in the petition. He also relied on the decision of Hon'ble Supreme Court in the case of **Rashmi Mishra Vs. M.P. Public Service Commission & Ors., (2006) 12 SCC 724**, in which, it was held that in case, all the selected candidates are not impleaded as party in the writ petition, no relief can be granted to the petitioner. He further relied on the case of **Ranjan Kumar & Ors. Vs. State of Bihar & Ors., (2014) 16 SCC 187** and submits that selection in question could not be set aside without affording an opportunity to the selected candidates, therefore, present writ petition is liable to be dismissed.

5. Considering the submissions of learned counsel for the parties, going through the contents of the writ petition, counter affidavit, rejoinder affidavit as well as other relevant documents, the advertisement for the post in question was issued on 04.03.2024 for appointment 3446 posts of Technical Assistant Group – C on the requisition of State authorities and as per the Clause 11.13 of the advertisement dated 04.03.2024, it is mentioned that horizontal reservation to the female candidate shall be provided as per the Government Order dated 26.02.1999 and the same was considered by the Full Bench of this Court in Writ-A No. 40695 of 2005 (Ajay Kumar Vs. State of U.P. and Others)

and held that the method of compartmentalization or proportionate division of seats reserved for women (horizontal reservation) to the extent of 20% in the social reserved category is the most preferred method and shall be applied uniformly as a rule in all selections in the State of U.P. under the scheme of the Government Order dated 26.02.1999. The Government Order dated 26.02.1999 was dealt by the Full bench while giving answer to the reference and observed that observations in **Anil Kumar Gupta Vs. State of U.P.** reported in **1995 (5) SCC 173** in paragraph 17 & 18 are followed and reiterated to hold that the method of implementation of horizontal reservation in favour of women in the State of U.P. shall be a 'compartmentalized horizontal reservation' in the manner stated above, so as to avoid any complication and intractable problems in future.

Relevant portion of the observations made by the Full Bench in Writ-A No. 40695 of 2005 (Ajay Kumar Vs. State of U.P. and Others) are as under :-

“Our answer to the question of implementation of women reservation in the State of U.P. under the Scheme of the Government order dated 26.02.1999 referred to this. Bench is thus, as under:-

- (i) The observations in Anil Kumar Gupta (supra) in paragraph no.'17' & '18' are followed and reiterated to hold that the method of implementation of horizontal reservation in favour of women in the State of U.P. shall be a "compartmentalized horizontal reservation" in the manner stated above, so as to avoid any complication and intractable problems in future.
- (ii) The method of compartmentalization or proportionate representation by dividing seats reserved for women candidates amongst the vertical (social) categories being in watertight compartment and not inter-transferable, shall be the rule and "Overall" method of implementation at the last stage of filling the short fall shall be the exception, which can be applied in a particular selection, after taking a conscious decision by the State by notifying for application of the said method, being "Overall", in the advertisement itself.

(iii) At the first and second stages of preparation of the merit lists of social categories, there will be one method only which is "Overall" calculation of seats secured by women candidates, (to the extent of 20% of the total vacancies), irrespective of their social categories. As occasion to apply women reservation, by displacement of male candidates in a selection will arise only after the said two stages are over and in the event there is short fall.

The reference to the Larger Bench, accordingly, stands answered.

The writ petition shall now be placed before the regular Bench according to the roster for disposal in light of the question so answered.

We hope and trust that the State-respondents will implement the policy of women reservation in the manner as stated above for the ensuing selections. A copy of this judgment shall be communicated to the Chief Secretary, Government of U.P. for his attention and implementation.”

5.1. It is also noticed on the basis of judgment relied by the learned counsel for the parties in the case of Saurav Yadav (supra) that the manner of application of horizontal reservation was dealt in the case of Anil Kumar Gupta (supra) and the principles laid down by the High Courts of Rajasthan, Bombay, Uttarakhand and Gujarat are contrary to the mechanism laid down in the case of Anil Kumar Gupta. The relevant paragraphs of the judgment of Hon’ble Supreme Court of India in Saurav Yadav’s case are as under :-

29. The second view may lead to a situation where, while making adjustment for horizontal reservation in Open or General Category seats, less meritorious candidates may be adjusted, as has happened in the present matter. Admittedly, the last selected candidates in Open General female category while making adjustment of horizontal reservation had secured lesser marks than the applicants. The claim of the applicants was disregarded on the ground that they could claim only and only if there was a vacancy or chance for them to be accommodated in their respective column of vertical reservation.

30. Both the views can be compared and the issues involved in this matter can be considered in the light of a hypothetical illustration with following assumptions:

30.1. The total seats available are 100; comprising of 50 seats for “Open/General Category”. The reservation for Scheduled Castes, Scheduled Tribes and Other Backward Classes is at 20%, 10% and 20% respectively and all candidates from these reserved categories are otherwise eligible to be considered against Open General Category.

30.2. The percentage of seats available for “Women” by way of compartmentalized horizontal reservation is 30%.

30.3. Out of all qualified candidates, when first 50 meritorious candidates are picked up to fill up the seats for “Open/General Category”:

- (a) There are only 11 women in first 50 candidates in “Open/General Category”; and
- (b) the last five persons in the “Open/General Category” viz. the candidates at Serial Nos. 46, 47, 48, 49 and 50 are—

Sl. No. 46	—	Open Category	—	Male
Sl. No. 47	—	Open Category	—	Male
Sl. No. 48	—	Scheduled Caste	—	Male
Sl. No. 49	—	Scheduled Caste	—	Male
Sl. No. 50	—	Scheduled Caste	—	Female

(c) first four female candidates in the waiting list, who do not belong to any of the reserved categories, are having overall merit position at Serial Nos. 52, 64, 87 and 88.

(d) Going by the steps indicated in para 18 of the decision in Anil Kumar Gupta [Anil Kumar Gupta v. State of U.P., (1995) 5 SCC 173] , at the stage of filling up seats for Scheduled Castes Category, there are 7 females among 20 candidates with last 2 candidates being females whose overall ranking in the merit list is at Serial Nos. 80 and 86.

(e) Similarly, the seats for Scheduled Tribes and Other Backward Categories are filled up.

(f) Out of 20 candidates selected in Other Backward Category there are 09 females.

31. The basic features of this illustration can be put in the following tabular format:

Total Seats : 100				
Categories	Open/ General	Scheduled Castes	Scheduled Tribes	Other Backward Classes
Seats available	50	20	10	20
Minimum seats for women	15	6	3	6
Seats occupied by women before application of horizontal reservation	11	7	3	9

Shortfall, if any	4	Nil	Nil	Nil
-------------------	---	-----	-----	-----

32. Having allocated first 50 seats in Open General Category and filled up other vertical column of reservation, the next step is to effect horizontal reservation for women. If the reservation for women was to be “overall horizontal reservation”, there are 30 women (11+07+03+09) and nothing further is required to be done.

33. However, if the horizontal reservation for women is to be taken as “compartmentalised”, as we are concerned in the present matter and the instant illustration, the appropriate steps must comprise of following:

33.1. Since the shortfall for women is of four seats in Open/General Category, last four male candidates, namely, those at Serial Nos. 46, 47, 48 and 49 initially allocated to Open/General Category, will have to be displaced. The candidate at Serial No. 50, being a woman, cannot be displaced.

33.2. The male candidates at Serial Nos. 46 and 47 being from Open/General Category, after such displacement will be completely out of reckoning as they cannot go to any reserved category.

33.3. The candidates at Serial Nos. 48 and 49 being more meritorious than the candidates originally placed in the vertical column of reservation for Scheduled Castes, must go back to their own vertical column. This will cause resultant displacement of two candidates in that vertical column of reservation. The 20th candidate, whose overall merit position is at Serial No. 86, though a female, but being in excess of quota for Scheduled Castes female and a male candidate immediately above the 19th candidate will thus get displaced.

33.4. If we go by the second view, the female candidates at Serial Nos. 52, 64, 87 and 88 must be accommodated against Open General Category seats whereas the candidate at Serial No. 86, though more meritorious than those at Serial Nos. 87 and 88, must be left without any seat.

33.5. On the other hand, if we go by the first view, the claim of reserved category candidates if they are more meritorious, has to be considered, in which case the candidate at Serial No. 86 will be required to be accommodated. Resultantly, the candidate at Serial No. 88 must give way

33.6. There can be various such permutations and combinations and in a given case, the female candidates concerned from reserved category in the waiting list for their respective vertical columns of reservation, may be more meritorious than the female candidates in the waiting list for Open/General category seats. The instant illustration is given to highlight the situation that can possibly emerge if the second view is adopted.

34. The second view, based on adoption of a different principle at the stage of horizontal reservation as against the one accepted to be a settled principle for vertical reservation, may thus lead to situations where a less meritorious candidate, not belonging to any of the reserved categories, may get selected in preference to a more meritorious candidate coming from a reserved category. This incongruity, according to the second view, must be accepted because of certain observations of this Court in *Anil Kumar Gupta* [*Anil Kumar Gupta v. State of U.P.*, (1995) 5 SCC 173] and *Rajesh Kumar Daria* [*Rajesh Kumar Daria v. Rajasthan Public Service Commission*, (2007) 8 SCC 785 : (2009) 1 SCC (L&S) 1055] . The following sentences from these two decisions are relied upon in support of the second view:

“18. ... But if it is not so satisfied, the requisite number of special reservation candidates shall have to be taken and adjusted/accommodated against their respective social reservation categories by deleting the corresponding number of candidates therefrom.” [from SCC p. 185, para 18 of *Anil Kumar Gupta* [*Anil Kumar Gupta v. State of U.P.*, (1995) 5 SCC 173]]

9. ... But the aforesaid principle applicable to vertical (social) reservations will not apply to horizontal (special) reservations.” [from SCC p. 792, para 9 of *Rajesh Kumar Daria* [*Rajesh Kumar Daria v. Rajasthan Public Service Commission*, (2007) 8 SCC 785 : (2009) 1 SCC (L&S) 1055]]

These sentences are taken to be a mandate that at the stage of horizontal reservation the candidates must be adjusted/accommodated against their respective categories by deleting corresponding number of candidates from such categories and that the principle applicable for vertical (social reservation) will not apply to horizontal (special reservation). In our view, these sentences cannot be taken as a declaration supporting the second view and are certainly being picked out of context.

35. The observations in para 18 in *Anil Kumar Gupta* [*Anil Kumar Gupta v. State of U.P.*, (1995) 5 SCC 173] contemplated a situation where if “special reservation candidates” entitled to horizontal reservation are to be adjusted in a vertical column meant for “social reservation”, the corresponding number of candidates from such “social reservation category” ought to be deleted. It did not postulate that at the stage of making “special or horizontal reservation” a candidate belonging to any of the “social reservation categories” cannot be considered in Open/General Category. It is true that if the consideration for accommodation at horizontal reservation stage is only with regard to the vertical reservation concerned or social reservation category, the candidates belonging to that category alone must be considered. For example, if horizontal reservation is to be applied with regard to any of

the categories of Scheduled Castes, Scheduled Tribes or Other Backward Classes, only those candidates answering that description alone can be considered at the stage of horizontal reservation. But it is completely different thing to say that if at the stage of horizontal reservation, accommodation is to be considered against Open/General seats, the candidates coming from any of the reserved categories who are more meritorious must be sidelined. That was never the intent of the observations sought to be relied upon in support of the second view.

36. Similarly, the observations in *Rajesh Kumar Daria* [*Rajesh Kumar Daria v. Rajasthan Public Service Commission*, (2007) 8 SCC 785 : (2009) 1 SCC (L&S) 1055] were in the context of emphasising a distinguishing feature between vertical and horizontal reservations; in that:

(a) At the stage of vertical reservation, the reserved category candidates selected in Open/General category are not to be counted while filling up seats earmarked for the corresponding reserved categories.

(b) But the same principle of not counting the selected candidates concerned is not to apply for horizontal reservation.

Adopting principle (a) at the stage of horizontal reservation, the respondents in *Rajesh Kumar Daria* [*Rajesh Kumar Daria v. Rajasthan Public Service Commission*, (2007) 8 SCC 785 : (2009) 1 SCC (L&S) 1055] had separately allocated 11 seats for women in General Category as part of special or horizontal reservation, though another set of 11 women candidates had got selected, according to their own merit, in General Category quota. The quota of 11 seats for women having been already satisfied, this Court negated the theory that their number be disregarded while making horizontal reservation for women. It was in that context that the distinction between vertical and horizontal reservations was highlighted by this Court in para 9 of the decision. The subsequent sentence “thus women selected on merit within the vertical reservation quota will be counted against the horizontal reservation for women” in the very same paragraph and the illustration given thereafter are absolutely clear on the point.

37. The decision of this Court in *Uttaranchal Public Service Commission v. Mamta Bisht* [*Uttaranchal Public Service Commission v. Mamta Bisht*, (2010) 12 SCC 204 : (2011) 1 SCC (L&S) 208] was also completely misunderstood. In that case one Neetu Joshi had secured a seat in General Category on her own merit and she also answered the category of horizontal reservation earmarked for “Uttaranchal Mahila”. The attempt on part of Mamta Bisht, the original writ petitioner, was to submit that said Neetu Joshi having been appointed on her own merit in General Category, the seat meant

for “Uttaranchal Mahila” category had to be filled up by other candidates. In essence, what was projected was the same stand taken by the respondents in *Rajesh Kumar Daria* [*Rajesh Kumar Daria v. Rajasthan Public Service Commission*, (2007) 8 SCC 785 : (2009) 1 SCC (L&S) 1055] , which was expressly rejected in that case. It is for this reason that para 15 of the decision in *Uttaranchal Public Service Commission v. Mamta Bisht* [*Uttaranchal Public Service Commission v. Mamta Bisht*, (2010) 12 SCC 204 : (2011) 1 SCC (L&S) 208] expressly returned a finding that the judgment rendered by the High Court in accepting the claim of Mamta Bisht was not in consonance with law laid down in *Rajesh Kumar Daria* [*Rajesh Kumar Daria v. Rajasthan Public Service Commission*, (2007) 8 SCC 785 : (2009) 1 SCC (L&S) 1055] and the appeal was allowed. This decision is thus not of any help or assistance in support of the second view.

38. The second view is thus neither based on any authoritative pronouncement by this Court nor does it lead to a situation where the merit is given precedence. Subject to any permissible reservations i.e. either social (vertical) or special (horizontal), opportunities to public employment and selection of candidates must purely be based on merit. Any selection which results in candidates getting selected against Open/General category with less merit than the other available candidates will certainly be opposed to principles of equality. There can be special dispensation when it comes to candidates being considered against seats or quota meant for reserved categories and in theory it is possible that a more meritorious candidate coming from Open/General category may not get selected. But the converse can never be true and will be opposed to the very basic principles which have all the while been accepted by this Court. Any view or process of interpretation which will lead to incongruity as highlighted earlier, must be rejected.

39. The second view will thus not only lead to irrational results where more meritorious candidates may possibly get sidelined as indicated above but will, of necessity, result in acceptance of a postulate that Open/General seats are reserved for candidates other than those coming from vertical reservation categories. Such view will be completely opposed to the long line of decisions of this Court.

40. We, therefore, do not approve the second view and reject it. The first view which weighed with the High Courts of Rajasthan, Bombay, Uttarakhand and Gujarat is correct and rational.

52. This judgment is the third in sequence, and deals with a recruitment, for the post of Constable (Civil) and Provincial Armed Constable (PAC). The first one was delivered on 19-1-2016. [*Hanuman Dutt Shukla v. State of U.P.*, (2018) 16 SCC 447 : (2019) 1 SCC (L&S) 251] It dealt with the results and exclusion of candidates who had used whiteners and blades, while attempting the selection test. This Court had in that judgment, held that such applicants' candidature could not have been rejected. The second judgment, dated 27-11-2018 [*Alok Kumar Singh v. State of U.P.*, (2019) 14 SCC 692 : (2020) 2 SCC (L&S) 319] of this Court directed as follows : (*Alok Kumar Singh case* [*Alok Kumar Singh v. State of U.P.*, (2019) 14 SCC 692 : (2020) 2 SCC (L&S) 319] , SCC p. 707, paras 27-28)

“27. ... Therefore, total number of candidates who could be selected in the selection relatable to the year 2011 in any case ought not to be less than 4010+1022. Status and identity of the candidates who form the group of 1022 candidates is very clear. In this context, it is to be noted that the vacancies notified are only approximate and there is nothing wrong if the number increases in the exigencies of service.

28. We now come to the issue as to what should be the approach in respect of vacant posts on two counts. The tabular chart then states that 226 posts remained unfilled as a result of non-availability of candidates in the category of dependants of freedom fighters, etc. and 607 posts are lying vacant as a result of candidates who discontinued training or did not qualify in medical examination/character verification. Theoretically, 226 unfilled posts ought to be carried forward for further selection as those posts were earmarked for dependants of freedom fighters.”

53. The controversy that arises in the present round of litigation is the correct method of filling the quota reserved for women candidates (“horizontal quota”). It is the complaint of the applicants, who are largely women, belonging to the Other Backward Class categories, that the State has not correctly applied the rule of reservation, and denied such OBC women candidates the benefit of “migration” i.e. adjustment in the General category vacancies.

54. The U.P. Public Services (Reservation for Physically Handicapped, Dependants of Freedom Fighters and Ex-Servicemen) Act, 1993 (hereafter “the 1993 Act”) provided for reservations to persons with disability, ex-servicemen and dependants of freedom fighters. The U.P. Public Services (Reservation for Scheduled Castes, Scheduled Tribes and Other Backward Classes) Act, 1994 is the comprehensive law, enacted by the State of U.P.

providing for reservation for social categories (SC/ST/OBCs). The provisions of the 1993 Act (for persons with disabilities, ex-servicemen and dependants of freedom fighters [“DFF” hereafter]) clearly stated by Section 3(3) that:

“3. (3) The persons selected against the vacancies reserved under sub-section (1) shall be placed in the appropriate categories to which they belong. For example, if a selected person belongs to Scheduled Castes category he will be placed in that quota by making necessary adjustments; if he belongs to Scheduled Tribes category, he will be placed in that quota by making necessary adjustments; if he belongs to Other Backward Classes of Citizens category, he will be placed in that quota by making necessary adjustments. Similarly. if he belongs to open competition category, he will be placed in that category by making necessary adjustments.”

It is thus apparent that the reservations under the 1993 Act were “horizontal” in nature.

55. The quota provided for women, as well as dependants of freedom fighters (“DFF”) and ex-servicemen, in the present case are characterised as “horizontal” whereas the quotas for social groups (SCs, STs, OBCs) are characterised as “vertical”. The coining of this differential terminology is underscored by the fact that the latter is sanctioned explicitly in Article 16(4), whereas the former is evolved through a process of permissible classification [Articles 14, 16(1)], although such horizontal reservations have been located additionally in Article 15(3) [See State of A.P. v. P.B. Vijayakumar, (1995) 4 SCC 520 : 1995 SCC (L&S) 1056 [this Court held that “Making special provisions for women in respect of employment or posts under the State is an integral part of Article 15(3). This power conferred under Article 15(3), is not whittled down in any manner by Article 16.”]] .

56. In the State of U.P., there is no law or rule (framed under proviso to Article 309 of the Constitution) that mandates reservation for women. However, a government order was issued, applicable to all posts, on 26-2-1999. The Government Order (GO) issued by the Government of Uttar Pradesh (U.P.) providing for horizontal reservation for women, dated 26-2-1999, is extracted below. [Extracted from Sunaina Tripathi v. State of U.P., 2012 SCC OnLine All 164 : (2012) 3 ADJ 463.]

“No-14/1/9/Ka-2/4	
Personnel Section-2 Lucknow,	Dated 26-2-1999
“No-14/1/9/Ka-2/4	

Personnel Section-2 Lucknow,
 From,
 Shri Sudhir Kumar,
 Secretary,
 Government of Uttar Pradesh.
 To,
 1-All Principal Secretaries/Secretaries, Government of Uttar Pradesh.
 2-All Head of the Department/Head of Office, Uttar Pradesh.
 3-All Divisional/District Magistrate, Uttar Pradesh.
Subject : Reservation for women on the process of direct recruitment to public services and posts under the State.

Sir,

I have been directed to inform that the Government has decided to provide 20 per cent reservation for women on the process of direct recruitment to State Public Services and posts subject to the following conditions:

1. Reservation will be applicable to the process of direct recruitment to public services and posts under the State. There will be no promotion posts.
2. The reservation will be horizontal in nature i.e. to say that category for which a woman has been selected under the aforesaid reservation policy for posts for woman in Public Services and on the posts meant for direct recruitment under State Government, shall be adjusted in the same category only.
3. If a woman is selected on the basis of merit in any State Public Service and post, her selection will be against the vacancy reserved for women in that category.
4. If a suitable woman candidate is not available for the post reserved for women in Public Services and on the posts meant for direct recruitment under State Government, then such a post shall be filled up from amongst a suitable male candidate and such a post shall not be carried forward for future.
5. The qualifications required for women for direct recruitment to the posts on the services under the State, will continue to be in accordance with the pre-existing requirements mentioned in the relevant recruitment rules and there will be no change in the position on account of this rule.
6. Public services and posts refer to public services and posts as defined in the Uttar Pradesh Public Service Reservation Act for Scheduled Castes, Scheduled Tribes and Other Backward Classes.

Please take steps to ensure compliance with the above orders of the Government. You are also requested to inform all the officers subordinate to the Government are made aware of this order.

Yours
 Sudhir Kumar
 Secretary”

57. As is apparent from a plain reading of the above government order, the only stipulation with respect to treatment of horizontal reservation for women, is that in case a woman candidate is selected, she would be adjusted against the appropriate social category she belongs to (SC/ST/OBC/OC). However, there is no rule, or direction which prohibits the adjustment of socially reserved categories of women in the general category or “open

category”. The first indication of this is in *Indra Sawhney* [*Indra Sawhney v. Union of India*, 1992 Supp (3) SCC 217, para 812 : 1992 SCC (L&S) Supp 1] where B.P. Jeevan Reddy, J. stated as follows : (SCC pp. 735-36, para 812)

“812. Horizontal reservations cut across the vertical reservations — what is called interlocking reservations. To be more precise, suppose 3% of the vacancies are reserved in favour of physically handicapped persons; this would be a reservation relatable to clause (1) of Article 16. The persons selected against this quota will be placed in the appropriate category; if he belongs to SC category he will be placed in that quota by making necessary adjustments; similarly, if he belongs to open competition (OC) category, he will be placed in that category by making necessary adjustments. Even after providing for these horizontal reservations, the percentage of reservations in favour of backward class of citizens remains — and should remain — the same. This is how these reservations are worked out in several States and there is no reason not to continue that procedure.”

(emphasis supplied)

58. This rule was affirmed and applied in *Anil Kumar Gupta v. State of U.P.* [*Anil Kumar Gupta v. State of U.P.*, (1995) 5 SCC 173] , *Swati Gupta v. State of U.P.* [*Swati Gupta v. State of U.P.*, (1995) 2 SCC 560] , *Jitendra Kumar Singh v. State of U.P.* [*Jitendra Kumar Singh v. State of U.P.*, (2010) 3 SCC 119 : (2010) 1 SCC (L&S) 772] and *Rajesh Kumar Daria v. Rajasthan Public Service Commission* [*Rajesh Kumar Daria v. Rajasthan Public Service Commission*, (2007) 8 SCC 785 : (2009) 1 SCC (L&S) 1055] . The manner of filling the horizontal reservation category and the vertical, social categories, was explained in *Rajesh Kumar Daria* [*Rajesh Kumar Daria v. Rajasthan Public Service Commission*, (2007) 8 SCC 785 : (2009) 1 SCC (L&S) 1055] in the following terms : (SCC pp. 790-91, para 9)

“9. Social reservations in favour of SC, ST and OBC under Article 16(4) are “vertical reservations”. Special reservations in favour of physically handicapped, women, etc. under Articles 16(1) or 15(3) are “horizontal reservations”. Where a vertical reservation is made in favour of a backward class under Article 16(4), the candidates belonging to such backward class, may compete for non-reserved posts and if they are appointed to the non-reserved posts on their own merit, their number will not be counted against the quota reserved for the respective backward class. Therefore, if the number of SC candidates, who by their own merit, get selected to open competition vacancies, equals or even exceeds the percentage of posts reserved for SC candidates, it cannot be said the reservation quota for SCs has been filled. The entire reservation quota will be intact and available in addition to those selected under open competition category. [Vide *Indra Sawhney* [*Indra Sawhney v. Union of India*, 1992 Supp (3) SCC 217 : 1992 SCC (L&S) Supp 1] , *R.K. Sabharwal v. State of Punjab* [*R.K. Sabharwal v. State of Punjab*,

(1995) 2 SCC 745 : 1995 SCC (L&S) 548] , Union of India v. Virpal Singh Chauhan [Union of India v. Virpal Singh Chauhan, (1995) 6 SCC 684 : 1996 SCC (L&S) 1] and Ritesh R. Sah v. Y.L. Yamul [Ritesh R. Sah v. Y.L. Yamul, (1996) 3 SCC 253] .] But the aforesaid principle applicable to vertical (social) reservations will not apply to horizontal (special) reservations. Where a special reservation for women is provided within the social reservation for Scheduled Castes, the proper procedure is first to fill up the quota for Scheduled Castes in order of merit and then find out the number of candidates among them who belong to the special reservation group of “Scheduled Castes-Women”. If the number of women in such list is equal to or more than the number of special reservation quota, then there is no need for further selection towards the special reservation quota. Only if there is any shortfall, the requisite number of Scheduled Caste women shall have to be taken by deleting the corresponding number of candidates from the bottom of the list relating to Scheduled Castes. To this extent, horizontal (special) reservation differs from vertical (social) reservation. Thus women selected on merit within the vertical reservation quota will be counted against the horizontal reservation for women.”

59. The features of vertical reservations are:

59.1. They cannot be filled by the open category, or categories of candidates other than those specified and have to be filled by candidates of the social category concerned only (SC/ST/OBC).

59.2. Mobility (“migration”) from the reserved (specified category) to the unreserved (open category) slot is possible, based on meritorious performance.

59.3. In case of migration from reserved to open category, the vacancy in the reserved category should be filled by another person from the same specified category, lower in rank.

59.4. If the vacancies cannot be filled by the specified categories due to shortfall of candidates, the vacancies are to be “carried forward” or dealt with appropriately by rules.

60. Horizontal reservations on the other hand, by their nature, are not inviolate pools or carved in stone. They are premised on their overlaps and are “interlocking” reservations [The expression used by B.P. Jeevan Reddy, J., in Indra Sawhney v. Union of India, 1992 Supp (3) SCC 217 : 1992 SCC (L&S) Supp 1.] . As a sequel, they are to be calculated concurrently and along with the inviolate “vertical” (or “social”) reservation quotas, by application of the various steps laid out with clarity in para 21.3 [Ed. : See also paras 21.4, 21.6, para 23.11 r/w para 43 and paras 30 to 43.] of Lalit, J.'s judgment. They cannot be carried forward. The first rule that applies to filling horizontal reservation quotas is one of adjustment i.e. examining whether on merit any of the horizontal categories are adjusted in the merit list in the open category, and then, in the quota for such horizontal category within the particular specified/social reservation.

61. The open category is not a “quota”, but rather available to all women and men alike. Similarly, as held in *Rajesh Kumar Daria* [*Rajesh Kumar Daria v. Rajasthan Public Service Commission*, (2007) 8 SCC 785 : (2009) 1 SCC (L&S) 1055], there is no quota for men. If we are to accept the second view [as held by the Allahabad High Court in *Ajay Kumar v. State of U.P.* [*Ajay Kumar v. State of U.P.*, 2019 SCC OnLine All 2674 : (2019) 5 All LJ 466] and the Madhya Pradesh High Court in *State of M.P. v. Uday Sisode* [*State of M.P. v. Uday Sisode*, 2019 SCC OnLine MP 5750], referred to in paras 24 and 25 of Lalit, J.'s judgment], the result would be confining the number of women candidates, irrespective of their performance, in their social reservation categories and therefore, destructive of logic and merit. The second view, therefore — perhaps unconsciously supports—but definitely results in confining the number of women in the select list to the overall numerical quota assured by the rule.

62. In my opinion, the second view collapses completely, when more than the stipulated percentage 20% (say, 40% or 50%) of women candidates figure in the most meritorious category. The said second view in *Ajay Kumar* [*Ajay Kumar v. State of U.P.*, 2019 SCC OnLine All 2674 : (2019) 5 All LJ 466] and *Uday Sisode* [*State of M.P. v. Uday Sisode*, 2019 SCC OnLine MP 5750] thus penalises merit. The principle of mobility or migration, upheld by this Court in *Union of India v. Ramesh Ram* [A three-Judge Bench in (2009) 6 SCC 619 : (2009) 2 SCC (L&S) 234, referred the matter to be heard by a Constitution Bench of five Judges in *Union of India v. Ramesh Ram*, (2010) 7 SCC 234 : (2010) 2 SCC (L&S) 412, which took note of the judgment in *Indra Sawhney v. Union of India*, 1992 Supp (3) SCC 217 : 1992 SCC (L&S) Supp 1, wherein it was held that : (SCC p. 735, para 811)“811. In this connection it is well to remember that the reservations under Article 16(4) do not operate like a communal reservation. It may well happen that some members belonging to, say, Scheduled Castes get selected in the open competition field on the basis of their own merit; they will not be counted against the quota reserved for Scheduled Castes; they will be treated as open competition candidates.”] and other cases, would then have discriminatory application, as it would apply for mobility of special category men, but would not apply to the case of women in such special categories (as glaringly evident from the facts of this case) to women who score equal to or more than their counterparts in the open/general category.

5.2. It is evident that the advertisement in question was issued in accordance with the Government Order dated 26.02.1999, pursuant to which the petitioners applied and participated in the selection process. However, after having been declared unsuccessful, the petitioners have challenged the advertisement as well as Clause 11.13 thereof.

Significantly, the Government Order dated 26.02.1999, whereby the scheme of vertical reservation was implemented, has not been challenged by the petitioners. It is further evident that the selection process had already been concluded in June, 2026, and appointment letters had also been issued to the selected candidates. The present petition was filed in August, 2026; however, the selected candidates, whose rights are directly affected by the relief sought in the present petition, have not been impleaded as respondents. Furthermore, the controversy in question already stands settled up to the Hon'ble Supreme Court in *Saurabh Yadav* (supra). In view thereof, no interference is warranted with the selection process at this belated stage.

5.3. In view of the discussions made hereinabove, the present writ petition is misconceived and is hereby **dismissed**.

(Rajeev Singh,J.)

September 16, 2026

Gaurav/-