

Markandey Rai Vs. State of U.P. and Others

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Court : Allahabad

Decided On : Jan-09-1998

Reported in : 1998(1)AWC755; (1998)3UPLBEC1855

Judge : Binod Kumar Roy and; R.K. Mahajan, JJ.

Acts : [Constitution of India](#) - Articles 14, 16 and 226

Appeal No. : C.M.W.P. No. 4032 of 1993

Appellant : Markandey Rai

Respondent : State of U.P. and Others

Advocate for Def. : S.C., ;V.M. Sahai and ;S.M.A. Kazmi, Advs.

Advocate for Pet/Ap. : Umesh Narain Sharma, Adv.

Judgement :

B.K. Roy and R.K. Mahajan, JJ.

1. The petitioner, who joined Indian Navy in 1976 for a period of 10 years and whose services were extended for 5 years for the purposes of rehabilitation and as per service norms of Naval Regulation/Navy was entitled to apply for Civil Job 12 months in advance, after having been permitted, applied for U. P. Nyaylk Sewa (Munsif) Examination, 1989 pursuant to an advertisement No. A-I/E-2/90-91,

published in the Employment News dated June 23-29, 1990 (copy appended as Annexure No. 1) attaching clearance certificate from the competent authority stating that he can be released as per the norms. He was then in last year of his service. In terms of the advertisement in all 50 posts were available for appointment, out of which 4 were reserved for ex-servicemen. The Commission accepted his form but while issuing Admit Card to him directed him to deposit the Discharge Certificate of Army at the time of the examination. On 30.6.1991, he was discharged from service. He appeared in the said examination on October 22, 1991, handed over his Discharge Certificate (Annexure No. RA-1) to the Controller of Examination. However, he was not called for the interview. Result of the written examination was declared but his name did not figure amongst the successful candidates. The petitioner approached the Enquiry counter of the Commission and learnt that he has secured 408 marks. His further case is that large number of candidates belonging to his category, namely, ex-servicemen category, who were having lesser marks than him, were called for the interview by the Commission. He submitted a representation giving roll number of eight such candidates and the marks obtained by them (copy Annexure No. 2). The Officers of the Commission informed him that since Interview has already taken place, therefore, nothing can be done. As some candidates who had secured lesser marks than him were declared successful and thus he is grossly prejudiced. He has no other alternative and efficacious remedy than to move this Court under Article 226 of the [Constitution of India](#). Originally he came up with the prayer, namely, that the respondents be commanded to call him for interview and thereby judge his suitability for final selection.

2. On 3.2.1993 Sri V. M. Sahai, learned counsel accepted notice on behalf of the Commission-Respondent No. 2. The learned standing counsel accepted notice on behalf of the State-Respondent No. 1. Two weeks time was granted to file counter-affidavits.

3. Counter-affidavit was filed by the Commission stating, inter alia, that since the petitioner was discharged-more than six months after the last date of receipt of the application and as such Commission had cancelled his candidature in regard to ex-servicemen category and treated him as a general candidate who, as obtained

marks below the criterion fixed concerning general category candidates, failed to qualify for the interview.

4. The petitioner filed rejoinder to the aforementioned counter-affidavit stating, inter alia, that since he had undisputedly completed not only five years of service rather approximately 14 years of service on the date of his filing application in terms of the advertisement, which fact stand substantiated by the Discharge certificate Issued to him at the time of his retirement and the benefit of reserved quota was available to him. Accordingly, the stand taken by the Commission is without any legal basis and logical foundation. The decision of the Commission in treating him as a general candidate was erroneous. The admission card and the slip issued to him (copy appended as Annexure No. RA-2) would show that he was treated as a candidate from ex-servicemen quota. The maximum age limit of a candidate belonging to General Category was 30 years and relaxation of age was permissible only in case of ex-serviceman and other reserved quota and that is why he was allowed to appear at the age of 33 years and 9 months.

5. Thereafter this case was placed on 1.3.1994. On that day, learned standing counsel prayed for and was granted one month time to file counter-affidavit. The case was directed to be listed after expiry of the said time. Meanwhile the Commission was directed to hold interview of the petitioner for Judging his suitability for his appointment to Nyayik Sewa (Munsif) Examination, 1989 on the basis of examination.

6. Against the Interim order aforementioned Respondent No. 2 went up before the Hon'ble Supreme Court. The S.L.P. was ultimately dismissed.

7. The Commission issued an Office Memorandum dated 15.10.1994 (copy Annexure No. 1 to this affidavit) intimating the petitioner that it has decided to hold his interview. The petitioner was interviewed. The Commission, however, did not declare his result.

8. The petitioner came up with a prayer to command the Commission to declare his result for the reasons mentioned in his affidavit.

9. The petitioner also brought on the record his stand that Sri Shamsheer Khan, Ex. Sergeant (618644 I) Indian Air Force, a candidate of P.C.S. (J), 1989. who has been finally selected as Munsif and posted at Etawah from the category of ex-serviceman, was having more than 4 years of service at the time of applying, who was allowed without any objection to appear in the written examination and interview and permitted to Join after taking discharge from service, when he was Issued a conditional admit card and after submission of discharge certificate permitted to appear in the examination but now such a ground is being taken.

10. The Commission in its supplementary counter-affidavit stated, inter alia, that the last date for receipt of the application was 4.9.1990 ; that in fact the petitioner was due to be released on 30.6.1991, and as such his candidature as ex-serviceman was cancelled.

11. The petitioner filed a rejoinder to the supplementary Counter-affidavit reiterating his stand and pointed out that no reply has been given in regard to the facts stated concerning appointment of Sri Shamsheer Khan.

12. The petitioner filed an amendment application supported by an affidavit stating, inter alia, that during pendency of this writ petition, he appeared in the U. P. Nyayik Scwa (Munsif) Examination, 1990, qualified and on the basis of said examination appointed as Munsif, now named as Civil Judge (Junior Division) ; that in case he is finally selected in the U. P. Nyayik (Munsif) Examination, 1989 his seniority in the service will have to be re-fixed treating him to be appointed in the year 1989 ; that in the interest of justice his result be declared ; and that in case he is declared selected the respondents be directed to re-fix his seniority with all consequential benefits treating him to have been appointed in the year 1989.

13. Vide order dated 21.8.1997 the amendments prayed for were allowed and as a result thereof, the petitioner has come up with following prayers :

(t-a) to command the respondent No. 2 to declare his result of the U. P. Nyayik Sewa (Munsif) Examination, 1989 ;

(i-b) command the respondents to fix his seniority as per merit in 1989 batch with all consequential benefits.'

14. The petitioner also came up with a prayer to direct the Commission to furnish his result.

15. Having heard the parties at some length vide our order dated 12.8.1997, we had directed the Commission to apprise us on affidavit as to whether the petitioner was otherwise successful in his Interview or not which was made subject to further orders of the Court and result of the writ petition. We also directed the Commission to produce the entire record pertaining to Sri Shamsheer Khan.

16. Supplementary counter-affidavit was filed by the Commission intimating the Court that the petitioner has become successful. It was also stated that the record in relation to Sri Shamsheer Khan was sent to the State Government in the absence of whom the petitioner cannot succeed. The Commission disclosed that on its record, there is application of Sri Shamsheer Khan stating that his services were extended for rehabilitation. Its record be summoned from the State Government as well as the High Court. There were only 4 vacancies for Ex-Army Personnel Quota, which are full.

17. The petitioner filed rejoinder to the supplementary counter-affidavit of the Commission stating, inter alia, following facts :

(i) The Commission has already admitted in paragraph 5 of the counter-affidavit the facts stated in paragraph 3 of the writ petition. The petitioner had submitted his Discharge Certificate to the Controller of Examination on October 22. 1991.

(ii) in paragraph 2 of his supplementary affidavit it has been specifically mentioned that the petitioner had Joined Indian Navy in 1976 for a period of 10 years and after completion of 10 years for the purposes of rehabilitation his services were extended for another 5 years and these facts have already been accepted in the supplementary counter-affidavit of the Commission sworn by Sri R. Rehman. Xerox copy of the Service Certificate is appended as Annexure-1 which shows the break up of his service. Notifications as contained in Annexures-2 and 3 clarify the

definition of an ex-serviceman,

(iii) As per Navy Order No. 64 of 1983 (appended as Annexure-5) the petitioner was entitled to release from service at any time in the last year of his service in case of civil employment. As per Navy Order No. 27 of 1984 (Appended as Annexure-4) he was entitled to appear in any civil service examination prior to one year to the release.

(iv) After the issuance of direction to produce records of Shri Shamsheer Khan which are in custody of Commission it has come with a new case to cover up its lapses. In fact the Commission has been changing frequently its stand, viz.-

(a) That it had asked the petitioner to submit his Discharge Certificate which he had submitted.

(b) Vide office memo dated January 21, 1993 (copy Annexure SA-1) it informed him on his representations that all 10 qualified candidates were called for the Interview and thus there was no need to consider the representation of the petitioner.

(c) in the counter-affidavit it was stated that he was having more than 6 months service on the date fixed for submission of the form and, therefore, he was treated in general category, though he could not be treated as such on account of his being overage and had not deposited any fees as per the terms of the advertisement. It is amply clear that the petitioner was treated as an ex-serviceman.

18. The petitioner during further hearing by us vide his supplementary affidavit filed on 7.11.1997. explained that the judgment dated 29.8.1996 in Civil Misc. Writ Petition No. 25641 of 1996, Nosh Kumar Srivastava v. State of U. P., relied on by the learned counsel for the Commission, is not applicable as (a) the term of advertisement governing the instant case is different from the term of the advertisement (copy Annexure SA-1) of that case ; and (b) in that case the Commission had Issued show-cause notices and cancellation order (Annexures SA-2 and SA-3) respectively, whereas in the instant case no such show-cause

notice or cancellation order has been issued.

19. The Commission filed a rejoinder to the supplementary affidavit aforementioned stating that the supplementary affidavit has no force as the controversy involved in this case was also involved in the case of Naresh Kumar Srivastava, namely, that to get the benefit of reservation of Ex-Army Personnel, one must have been released from service within 6 months from the last day of the filing of the application.

20. The Court also filed supplementary counter-affidavit stating, inter alia, that the State Government/U. P. Public Service Commission are competent authorities to furnish information regarding existence of vacancy of ex-serviceman of 1989 batch ; that Sri Ashok Kumar Bhatt, Additional Civil Judge (Junior Division), Jhansi, had moved the Court through application dated 19.6.1997 to be released from U. P. NyayikSewa to join the post of Deputy S. P. in the Provincial Police Service, which vide its letter dated 14.7.1997 had intimated to the Government of no objection ; and that the vacancy in respect of reservation for ex-serviceman are not carried forward.

21. In his supplementary rejoinder-affidavit to the counter-affidavit of the Court, the petitioner stated inter alia, that there is one vacancy available regarding ex-serviceman category for the 1989 batch and in case his petition is allowed, he can be accommodated against that vacancy ; that the stand taken by the Court regarding carried forward of the post is erroneous and misleading ; that Sri Ashok Kumar Bhatt, who was having more than six months service from the last date of submission of the form was selected in the 1989 batch from the ex-serviceman category ; and that the case of the petitioner is on better footing than that of the petitioner in Special Appeal No. 40 of 1991, Hart Shankar Upadhyay v. Public Service Commission, decided by the Full Bench, as the petitioner had put in 15 years service in the Indian Navy, whereas only 5 years service is essential for claiming relaxation of age.

22. The submissions :

22.1. Shri U. N. Sharma, learned counsel appearing on behalf of the petitioner, contended as follows :

The Discharge Certificate and the Service Certificate of the petitioner filed by him proved his claim whereas the Commission has been changing its stand from time to time all of which are incorrect. According to clause 6 of the advertisement an applicant of the ex-servicemen quota was required to submit a certificate from the competent authority of Army/Navy/Air Force to the effect that his period of service has been extended for rehabilitation and no disciplinary action is pending against him besides a written undertaking that in case he is selected for the post applied for he will get himself relieved immediately from the Army/Navy/Air Force. The upper age limit was to be greater by five years for the candidates belonging to the reserved categories including of ex-serviceman, who had served Army/Navy/Air Force for five years. His submissions stand supported by a bare perusal of the terms and conditions mentioned in the advertisement. The Commission had been taken inconsistent stands.

22.2 Shri V. M. Sahai, learned counsel for the Commission, argued as follows :

Referring to the advertisement's, caption 'Age' he contended that this concession is admissible to those army personnel, who are to be released within six months from the last date fixed for receipt of their application. In view of the term of the advertisement and the ratio laid down by the Apex Court in *Public Service Commission v. Alpana*, 1994 (2) SCC 723. the petitioner was required to be discharged from service within 6 months from the cut off date. i.e., 4.8.1990--the last date for receipt of the application. Since the petitioner did not submit any application or certificate with the Commission that his services had been extended for rehabilitation and thus, he was rightly not treated as an ex-serviceman. In regard to Shamsheer Khan, the Commission is only having a copy made by him. which does not contain the certificate of the ex-army personnel issued by the Air Force authority though in his application he has stated that his services had been extended for rehabilitation. He also stated that the records of Mr. Khan are with the Court and the Government. He submitted that Sri Shamsheer Khan must have been released within next six months from the last date fixed for receipt of application.

22.3. Shri S. M. A. Kazmi. learned counsel appearing for respondent No. 3, the Court, stated that it is for us to decide the issues raised by the petitioner and the Commission by placing all relevant materials before us. He, however, requested us not to make any observation in regard to Sri Shamsheer Khan in the larger Interest of justice.

22.4. Shri Sharma in his reply contended that the release certificate was filed by the petitioner along with his application on October 22, 1991 before the Controller of the Examination, which stands admitted in paragraph No. 5 of the counter-affidavit filed on behalf of the Commission. The petitioner was initially engaged for 10 years and thereafter re-engaged for 5 years for rehabilitation and his case is similar to that of Sri Shamsheer Khan and their cases fall in Category 6 and 6-A of the advertisement which is not disputed by the Commission. Surprisingly the Commission has come up with a stand that the petitioner was treated to be of general category which can be possible only giving 5 years age relaxation as ex-serviceman.

23. Our findings :

23.1. Before we proceed to consider rival submissions, it is useful to reproduce the relevant terms of the advertisement :

'Age. Candidates must have attained the age of 21 years and must not have attained the age of more than 30 years on July 1, 1990, i.e., they must not have been born earlier than July 2, 1960 and not later than, July 1, 1969.

Candidates who were eligible on 1.7.1989 in terms of prescribed age limits will also be treated eligible for this examination according to rules, upper age limit will be greater by 5 years for candidates belonging to the Scheduled Castes. Scheduled Tribes. Backward Classes and Dependents of Freedom Fighter of U. P.. and in case of Emergency Commissioned Officer/Short Service Commissioned Officer/Commissioned Officer /Ex-Army Personnel, if the incumbent has 5 years army service at his credit, upper age limit will be greater by 5 years. This concession is also admissible to those Army Personnel/Officer, who are to be released within next six months from the last date fixed for receipt of applications.

This concession will not be admissible to those who are dismissed on account of misconduct or Inefficiency and who have been discharged on account of any physical disability or Incapability for Army Service. Candidates belonging to the Scheduled Castes/Scheduled Tribes are entitled to two concessions while others claiming more than one concession will be allowed only one concession, whichever is more beneficial to them. Maximum age limit shall also be greater by five years also for efficient players of classified games in accordance with G. O. No. 22/21/1983-Karmik-2 dated 28.11.85.'

Fee.-- Rs. 80 (Rs. 25 for S.C. and S.T. candidates of U.P.) ex-servicemen/Released Army Officers are exempted from examination fee.....'

'General information :

X X X X X X X X X X X X X X X X 6. Applicants will have to submit a certificate from the competent authority of Army. Navy. Air Force to the effect that their period of service has been extended for rehabilitation and no disciplinary action is pending against them.

6 (a) Applicants will have to submit a written undertaking with their application that in case they are selected for the post applied for, they will get themselves released immediately from their respective wings.

7. Candidates serving under Central or State Governments should obtain 'No Objection Certificates' from their employer and submit to the Commission at the time of interview.'

23.2. A perusal of the records pertaining to Sri Shamsheer Khan produced before us by the Commission and the Court shows the following facts :

(i) On July 25. 1990 he had applied for P.C.S.. (Judicial), 1989 Examination claiming benefit of reservation as belonging to Backward Class and Ex-Serviceman both and declaring to be a regular employee of the Government of India, giving his address as SGT. S. S. Khan. Guard Room, No 1 AF Selection Board. Clement Town. Dehradun-U. P. 248002.

(ii) in his application under Column No. 12. he has stated to the effect that from 24.11.1973 till his promotion on 31.3.85 he was Non-Commissioned Officer in I.A.F. and from 1.4.85 till date he is Senior Non-Commissioned Officer.

(iii) Through his application dated July 20, 1991 to the Secretary of the Commission, he intimated change of his address as SGT. S. S. Khan. Security Sub No. 509 S. U. AF C/o 99 A.P.O.

(iv) Vide Interview Memo No. 129/7164 2/E-2/88-89, dated Allahabad 10 October, 1992, he was informed that November 4. 1992 has been fixed for his interview and he should produce concerned certificates of being of Backward Class or Ex-Service man.

(v) in his Attestation Form dated 4.11.92 he showed till date to be Senior Non-Commissioned Officer in I.A.F.

(vi) Vide his note dated 4.11.92 one Ravi Mishra submitted to the Chairman, Interview Board stating that the candidate has claimed to be ex-serviceman and from the certificate filed he is continuing on 'extended' and shall be relieved on 23.11.94. Eligibility of such candidates is accepted on furnishing the following certificates-- (1) His service has been extended for rehabilitation ; (2) There is no departmental proceeding against him : and (3) The candidate should give written undertaking that on being selected he will get himself released immediately.

Thus, whether to like to interview provisionally the candidate on a condition for production of aforesaid three certificates?

(vii) Vide his order dated 3.11.92 Sri Ganga Prasad, the Chairman of Interview Board, agreed with the proposal aforesaid and granted provisional Interview directing required certificates to be produced by 5.12.92.

A question arises as to how the order was passed on 3.11.92 on the note dated 4.11.92. i.e. to say a day earlier?

(viii) The aforesaid certificates were thus admittedly not produced by Mr. Khan at the time of interview. They were produced later on and the imposition of condition

by the Chairman was annulled on 26.11.1992.

23.3. It has not been in dispute before us that Sri Khan was appointed out of the ex-serviceman category. Either on the records of the Commission, or of the Court, produced before us, there is no Discharge Certificate of his. Till 23.11.92 he was In I.A.F. If the argument of Mr. Sahai is to be accepted, in that event it is not understandable why the principle that from the last date fixed for receipt of the application the Army Personnel Officer was to be released within next six months, was not applied in Khan's case.

23.4. We find substance in the arguments of Mr. Sharma. When he submitted that from the intimation vide Office memo dated 21st January, 1993 as contained in Annexure-SA 1 to the supplementary affidavit dated 10.3.96 given by the Commission to the petitioner, it was clear that the only vgZ&(qualified) candidates were called for interview which meant that the petitioner had not qualified though he had qualified.

23.5. It is clear that the Commission had permitted the petitioner to appear in the written examination on a condition that release certificate shall be produced by him at the time of the examination. The petitioner complied with that direction. This fact is not in dispute before us. Accordingly, the Commission cannot turn around to take up a different stand.

23.6. The terms of the advertisement were/are clear and explicit. Under the caption Age, the upper age limit will be greater which means relaxable by 5 years army service at his credit. The same concession was also admissible to those Army Personnel/Officer who are to be released within next 6 months from the last date fixed for receipt of the application. It has also been provided that those who are claiming more than one concession will be allowed only one concession, whichever is more beneficial to him.

Under the caption Fee an Ex-Serviceman candidate was totally exempted from examination fee. Admittedly no fee was paid by the petitioner.

Under clause 6 of the General Information, an applicant was required to submit-- (a) certificate from the competent authority of Army/Navy/Air Force to the effect that his period of service was extended for rehabilitation, (b) non-pendency of disciplinary action, and (c) a written undertaking that in case he is selected, he will get himself released immediately from the respective wings. It is not in dispute that the aforesaid terms were not complied by the petitioner.

The petitioner applied as a candidate from Ex-Army Personnel category under clause 6 aforesaid. The Commission also treated him as a released Army Personnel when it issued admission card for examination conditionally which was later on fulfilled by the petitioner. The intention behind this clause was that the Ex-Army Personnel category serving the Indian Army/Navy/Air Force or, if they fall within the age which is meant for applying for taking exemption, they can be released within that period by the Army for their benefit for achieving better prospect of life after their release from the Army. The Government has given five years benefit of age relaxation to the army personnel.

We are required to harmonise the terms mentioned under the caption Age and under clauses 6 and 6 (a) of the General Information and not to destroy the provision meant for the benefit of army personnel. We have already held that under clause 6 the petitioner was eligible to appear in the examination. Admittedly the petitioner had 10 years of service to his credit plus 4 years during rehabilitation period on the date of submission of his application.

All over India, in Central and States, there is reservation for Ex-Army Personnel, and four vacancies were reserved in this case. The petitioner figured at No. 3 in the written test with whom stand bracketed was Sri Shamsheer Khan, who had secured lesser marks than him in the interview.

23.7. The Commission was wrongly denying him the chance treating him as a general candidate and candidates obtaining lower marks than him were selected in Ex-Army Personnel category. We also find that a Fee of Rs. 80 was required to be deposited by the candidate belonging to the General Category and Ex-servicemen were exempted. The petitioner had not deposited any fee. How then the Commission treated him to be of General Category, could not be answered by

Sri Sahai.

23.8. Undisputedly Sri Shamsheer Khan had secured less marks than the petitioner and was shown favour by the Commission. Beyond this, we restrain to make comment in his regard, who is in service for several years.

23.9. The decision rendered by one of us (R. K. Mahajan, J.) in Writ Petition No. 25641 of 1996. Naresh Kumar Srivastava v. State of U. P. and others, decided on 29.8.96 and in Public Service Commission u. Alpana. 1994 (2) SCC 723, strongly relied upon by Sri Sahai in fact do not apply to the facts and circumstances of the present case.

We find substance in the argument of Mr. Sharma that the case of the petitioner is on a higher footing than that of Harf Shankar Upadhyaya, Special Appeal No. 40 of 1991. decided on 9.12.1997 by the Full Bench (Presided over by the Hon'ble Chief Justice).

Before the Full Bench the following questions fell for adjudication :

'The bottom-line question that quintessentially falls for determination by this Bench is whether a candidate, seeking direct appointment on the dint of being 'ex-Serviceman' to a post in Group 'A' and/or Group 'B' Service of the State Government, is required to fulfil the condition of 'at least five years' military service' as a pre-requisite to consideration of his candidature as against the posts reserved for 'Ex-servicemen'? An ancillary question, which arises for consideration in this connection, is whether the prescription of five years' military service vide G. O. dated 28.2.1985 as a condition precedent to claim relaxation in upper age limit prescribed for direct appointment to Group 'A' and/or Group 'B' services of the State Government is equally essential condition for consideration of the candidature of an Ex-serviceman against the quota reserved for 'ex-servicemen' and other defence personnel.'

And the Full Bench answered the questions thus :

'On the foregoing discussions, we are clearly of the view that Harf Shankar Tripathi's case was not correctly decided. The Division Bench in the present case

was right in taking the view that if a candidate 'is accepted as an Ex-serviceman, then, inevitably whatever quota stands reserved for Ex-servicemen from the armed forces, he receives the benefit of it'. In other words, it was rightly held that for the purpose of claiming a post in the quota reserved for 'Ex-servicemen' five years' 'maximum military service is not necessary and that fulfilment of such a condition is necessary only if the candidate seeks relaxation in the upper age limit prescribed for the purpose. Though the Division Bench also held that the condition of six months' military service after attestation is to be satisfied as a condition precedent for claiming consideration of candidature as against a post reserved for 'Ex-servicemen', we are of the view that in view of the definition of the term 'Ex-servicemen' as contained in the Act six months* service after attestation is not a necessary condition of being an Ex-serviceman from the Armed Forces. The requirement of six months' service after attestation, as noted earlier is prescribed in the Central Rule which has no application to recruitment on posts in State services.

The question formulated earlier is answered in the manner aforesaid.'

24. We are, therefore, of the considered view that the attitude of the Commission was arbitrary and unreasonable and violative of Articles 14 and 16 of the [Constitution of India](#) and we direct the Commission to recommend to the State the name of the petitioner to be appointed against the 1989 Batch as per merit from the available reserved quota of ex-servicemen category caused due to Joining in P.C.S. by Sri Ashok Kumar Bhatt, who was appointed from this category, and his seniority with all consequential benefits will be re-fixed by the State.

25. This writ petition is allowed with the above directions with cost assessed at Rs. 2.000 payable by the Commission-res pendent No. 2 only as we have found that it has changed its stand from time to time all of which have been found to be Incorrect by us.

25.1. The office is directed to handover a copy of this judgment to the learned standing counsel Sri Yadav for the State and the learned counsel Sri Sahai of the Commission for communication to and expeditious follow-up action by them.

