

Narendra Pratap Singh and ors. Vs. Director General of Police, U.P. and ors.

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Court : Allahabad

Decided On : May-22-2002

Reported in : 2002(3)AWC2176; (2002)3UPLBEC2304

Judge : Ashok Bhushan, J.

Acts : Uttar Pradesh Public Services (Reservation for Scheduled Castes, Scheduled Tribes and Other Backward Classes) Act, 1994 - Sections 3, 3(1), 3(2), 3(3), 3(4), 3(6) and 8; [Constitution of India](#) - Article 16(1) and 16(4)

Appeal No. : C.M.W.P. No. 25328 of 2001 with 17 Ors. Writ Petitions

Appellant : Narendra Pratap Singh and ors.

Respondent : Director General of Police, U.P. and ors.

Advocate for Def. : Satyendra Nath Srivastava, S.C.

Advocate for Pet/Ap. : Vijay Bahadur Singh, ;S.M.A. Kazmi, ;V.K. Shukla, ;Om Prakash Mishra, ;Anu Jaiswal and ;Vijai Sinha, Advs.

Judgement :

Ashok Bhushan, J.

1. This bunch of writ petitions raise common questions, hence are being decided by this common judgment. In Writ Petition No. 34039 of 2001, counter-affidavit,

supplementary counter-affidavit, rejoinder-affidavit and supplementary rejoinder-affidavit have been filed and pleadings of both the parties have been brought on record in details, hence the pleadings are being referred from that writ petition.

2. In view of the fact that the affidavits have been exchanged, both the parties have agreed that all the writ petitions be finally decided. Consequently, with the consent of the parties, all the writ petitions are being finally decided.

3. I have heard Sri Vijay Bahadur Singh, senior Advocate, Sri S. M. A. Qazmi, Sri V. K. Shukla, Sri Om Prakash Misra, Km. Arm Jalswal and Sri Vijai Sinha for the petitioners and Sri Satyandra Nath Srivastava, learned standing counsel for the respondents.

4. The facts of the case which emerge from the pleadings of the parties are that an advertisement was issued by the U. P. Police Head Quarter, Allahabad, for direct recruitment of Sub-Inspector Civil Police, Platoon Commander P.A.C. for the year 1999. A copy of the advertisement has been filed as Annexure-1 to the writ petition. By the advertisement, 1,231 posts of Sub-Inspector of Civil Police was advertised for male and 148 for female. 250 were posts advertised for Platoon Commander P.A.C. (male), Advertisement also provided 2% posts to be filled up by (Khushal Khiladi) sports men. The advertisement provided that there will be relaxation in age of five years in maximum for members belonging to backward class. It also provided that there will be reservation for Scheduled Caste, Scheduled Tribes and Other Backward Classes, Freedom Fighter, Ex-serviceman as provided by the Government from time to time. The advertisement further provided that there will be Preliminary qualifying examination which will be held under the supervision of the Superintendent of Police of each district. Qualifying examination was for total 800 marks and it was provided that securing fifty percent marks was essential for becoming eligible for physical test. Physical test was for 100 marks which was required to be passed by each candidate according to the requirement as mentioned in the advertisement. Those candidates who have passed preliminary qualifying examination and physical test were to be allowed to appear in the main written examination. The main written examination was for 600 marks and each candidate is required to have 40% marks for passing. The

selected candidate of the written examination were required to appear for interview and medical test. All the petitioners applied against the advertisement. It has been stated in the counter-affidavit that total 1,178 candidates were declared to have passed in the main written examination and in the final result declared on 6.7.2001, only 1,006 candidates were declared finally selected. The names of the petitioners were not included in the final select list dated 6.7.2001, hence they filed the present writ petitions.

5. In the counter-affidavit, the respondents have given details pertaining to the candidates belonging to different categories who were finally selected and the percentage of reservation fixed according to number of posts. According to the respondents, total posts for Sub-Inspector Civil Police were 1,231 (male) + 148 female (ten percent posts were referred to be reserved for women). According to the respondents, the advertisement for 1,634 posts was published containing 1,231 male + 148 (female) Sub-Inspector Civil Police and 255 Platoon Commander. It was stated that according to the policy of the State, 2% posts were reserved for sportsmen, hence against 1,478 posts of Sub-Inspector, 2%, i.e., 29 posts of Sub-Inspector were earmarked for sportsmen and five posts of Platoon Commander in sports quota. It was thus stated that 1350 posts were for Sub-Inspector Civil Police and 250 posts were to be filled up by Platoon Commanders. The percentage of reservation against the aforesaid posts have been mentioned in paragraph 4 of the supplementary counter-affidavit which is extracted below :

1- In the counter-affidavit, the respondents have given details pertaining to the candidates belonging to different categories who were finally selected and the percentage of reservation fixed according to number of posts. According to the respondents, total posts for Sub-Inspector Civil Police were 1,231 (male) + 148 female (ten percent posts were referred to be reserved for women). According to the respondents, the advertisement for 1,634 posts was published containing 1,231 male + 148 (female) Sub-Inspector Civil Police and 255 Platoon Commander. It was stated that according to the policy of the State, 2% posts were reserved for sportsmen, hence against 1,478 posts of Sub-Inspector, 2%, i.e., 29 posts of Sub-Inspector were earmarked for sportsmen and five posts of Platoon Commander in sports quota. It was thus stated that 1350 posts were for Sub-Inspector Civil Police and 250 posts were to be filled up by Platoon Commanders. The percentage of reservation against the aforesaid posts have been mentioned in paragraph 4 of the supplementary counter-affidavit which is extracted below :

6. It has been stated in the supplementary counter-affidavit that 608 male belonging to general category were selected, against 67 posts of general category for women only 15 women were available who were selected, rest of 52 posts

were filled up on merit from male candidates in accordance with the Government order dated 26.2.1999. It was stated that the total 675 posts in general category were filled up and no post of general category is vacant. It was further stated that according to the Government order dated 4.7.1994, those candidates belonging to reserve category who come on merit of general category candidates have to be treated as general category candidates, hence in 675 posts of general category candidates 173 candidates belonging to Other Backward Classes and nine candidates belonging to Scheduled Castes and one candidate belonging to Scheduled Tribes total 183 candidates came into general category and were treated to be general category candidates. Against Other Backward Category, Scheduled Caste and Scheduled Tribes, total number of candidates selected were shown to be 206. It was stated that there were less number of candidates available belonging to reserved category as against the number of posts which fell in the category of reserve category candidates. All reserve category candidates available were selected and the rest of the posts were carried forward. With regard to post of Platoon Commander, only 125 candidates belonging to general category were available, hence they were selected and rest of posts were carried forward.

7. Counsel appearing for the petitioners raised various submissions in support of the writ petitions. In the writ petition, the petitioners have prayed for quashing of the select list dated 6.7.2001 which is claimed to have been incorrectly prepared and in alternatively, it was prayed that the respondents be commanded to include the names of the petitioners in the select list and direction was sought directing the respondents to send the petitioners for training.

8. Following submissions have been made on behalf of the petitioners by various counsel appearing for the petitioners.

1. The number of candidates selected in the written examination were only 1178 whereas the total posts available were 1,634 hence all the candidates who were declared selected in the final written examination, were entitled to be finally selected. It is submitted that the number of finally selected candidates is only 1006 which is less than the number of posts advertised hence direction be issued to declare all the petitioners to be selected. Majority of petitioners claimed that they

have been selected in the final written examination 'hence they all were entitled to be finally selected.

2. 183 candidates belonging to reserve category have been wrongly included in the general category candidates depriving the right of 183 candidates belonging to general category candidates. It was submitted that the reserve category candidates had appeared after taking various concession and relaxation as provided by different Government orders hence they cannot be treated as general category candidates. It was submitted that a direction be Issued to select at least 183 more candidates belonging to general category.

3. Out of 67 posts reserved for female category candidates only 15 female category candidates were available for selection hence rest of 52 posts ought to have been filled up by male category candidates belonging to general category. Reservation has wrongly been applied in those 52 posts.

4. That several posts belonging to Other Backward Classes are still lying vacant which ought to be filled up from general category candidates in view of the number of candidates qualified in the main written examination are less than number of posts.

5. 2% reservation for sportsmen have been wrongly applied by reducing 29 + 5 posts from the total number of posts whereas 2% sportsmen were to be selected by adding the said 29 + 5 posts and the sportsmen were to be adjusted in their respective categories by providing horizontal reservation.

6. The last contention of the petitioners is that several candidates have been finally selected whose names did not find place in the main examination result declared on 31.5,2001 which proves that these candidates did not qualify in the main examination and their roll numbers have been wrongly included in the final select list.

9. Learned standing counsel replying to the aforesaid submission. has submitted that the reservation for Other Backward Classes, Scheduled Caste and Scheduled Tribes have been applied in the selection in accordance with the provisions of the

Uttar Pradesh Public Service (Reservation for Scheduled Castes, Scheduled Tribes and Other Backward Classes) Act, 1994. He has submitted that all posts belonging to the general category candidates have been filled up and no post is vacant in the general category hence the petitioners cannot be selected. It is submitted that the petitioners do not come in the merit of general category candidates who have been found selected against number of posts earmarked for general category candidates. The counsel for the petitioners submitted that on 183 posts reserve category candidates have rightly been treated to be general category candidates due to their merit which is in accordance with the provisions of Section 3, subsection (6) of U. P. Act No. IV of 1994. It has been submitted that left over posts belonging to woman category candidates have to be filled up by male category candidates belonging to all categories according to percentage of reservation. He further submitted that there is no proper pleading with regard to reservation pertaining to sports men. Learned standing counsel further submitted that relaxation granted in age and other eligibility criteria for Scheduled Caste and Backward class candidates cannot deprive them from being treated in the general category candidates if they compete in open competition with general category candidates and secured sufficient marks to come in merit of general category candidates.

10. Both the parties have relied on several decisions of the Apex Court and this Court, which will be referred in following paragraphs while considering the respective contentions.

11. After having heard counsel for the parties and perusing the record, it is clear that there is no dispute between the parties regarding facts of the case. The facts of the case pertaining to number of seats, number of candidates declared selected in written examination, final select list, number of candidates selected belonging to different reserved categories are not in dispute. The main controversy between the parties surrounds the question of applying reservation with regard to advertisement of posts. General category candidates are claiming selection on various grounds as mentioned above.

12. The first and second submissions raised by the counsel for the petitioner are inter-related and are being considered together. Admittedly, the number of posts advertised was 1,234 and It is admitted to the parties that only 1,178 candidates could qualify in the main written examination against the aforesaid number of vacancies and out of which only 1,006 candidates were finally selected. The submission of counsel for the petitioner that since the number of candidates declared selected in the written examination were much less than total number of vacancies, all were entitled to be finally selected, appears to be attractive in first blush but when it is carefully examined, it is found to be unacceptable. The number of candidates selected in written examination Included both general category candidates and reserve category candidates and since in the final selection, reservation has to be applied each categories can claim selection according to the posts which fell into different categories, e.g., the posts of Sub-Inspector belonging to general category have been shown to only 675, i.e., 50% of 1,350 posts of Sub-Inspector. It appears that the candidates who were declared selected in the main written examination were more in number belonging to general category candidates as compared to the posts which fell in their share, hence only those number of candidates belonging to general category could get finally selected who had sufficient merit to be included against the post falling in general category candidates. The Uttar Pradesh Public Services (Reservation for Scheduled Castes, Scheduled Tribes and Other Backward Classes) Act, 1994. Is applicable to post in connection with the affairs of the State. No one has disputed the applicability of the aforesaid Act in the instant selection. The percentage of reservation as prescribed in Section 3 of the Act has to be applied in the selection. The contention which has been much emphasised by the petitioner is that 183 candidates belonging to reserve category has wrongly been included in the general category depriving the rights of 183 candidates of general category, needs to be considered. It has been contended by the counsel for the petitioner that the reserve category candidates have been given relaxation in age, fee and they have appeared in the selection as a reserve category candidates, hence they have no right to claim to have Included in the general category candidates. The counsel for the petitioner has placed reliance on the judgment of the Apex Court in Post Graduate Institute of Medical Education and Research, Chandigarh and Ors. v. K.

L. Narasimhan and Anr., (1997) 6 SCC 283. Sri Om Prakash Misra appearing for the petitioner contended that the number of reserve category candidates have increased more than 50% which is contrary to limit of 50% as prescribed in the Act No. IV of 1994 and as laid down by the Apex Court in Indra Sawhney and Ors. v. Union of India and Ors., AIR 1993 SC 477. Reliance has also been placed by the petitioner on the judgment of the Apex Court in K. N. Srinivasan v. Flag Officer. 1996 (7) SCC 73.

13. Section 3, Sub-section (6) of the U. P. Act No. IV of 1994 lays down that if a person belonging to any of the categories gets selected on the basis of merit in an open competition with general candidates, he shall not be adjusted against the reserved vacancies. Section 3. Sub-section (6) is quoted as below :

'3 (6) If a person belonging to any of the categories mentioned in Sub-section (1) gets selected on the basis of merit in an open competition with general candidates, he shall not be adjusted against the vacancies reserved for such category under Sub-section (1).'

14. Section 3. Sub-section (6) has two keywords, i.e.. 'gets selected on the basis of merit' and 'in an open competition with general candidates'. What does selection on the basis of merit convey in this Sub-section. The merit has not been defined in the Act. However, Section 3. Sub-section (6) suggests that merit is referred to be merit which is shown in the competitive examination. The merit consists of high degree of intelligence coupled with a keen and incisive mind, sound knowledge of the basic subjects and capacity for hand work. The merit which is contemplated in Sub-section (6) is a merit shown by the candidate in the competitive examination. The competitive examination may consist of different stages and the final merit is to be judged according to the scheme of the examination and the criteria for ultimate selection. The other word used in Sub-section (6) is 'in an open competition with general candidates' refers to merit shown by reserve category candidates in an open competition. Open competition means the competition which is available without any restriction to all categories of candidates. The submission of the counsel for the petitioner that since respondents have taken various relaxation and concession while appearing in the competition, they cannot

be treated to be general category candidates has to be considered. The concession and relaxation have been separately dealt with in Section 8. Section 8 is quoted below :

'8, Concession and relaxation.--(1) The State Government may, in favour of the categories of persons mentioned in Sub-section (1) of Section 3, by order, grant such concessions in respect of fees for any competitive examination or interview and relaxation in upper age limit, as it may consider necessary.

(2) The Government orders in force on the date of the commencement of this Act, in respect of concessions and relaxation, including concession in fees for any competitive examination or interview and relaxation in upper age limit and those relating to reservation in direct recruitment and promotion. In favour of categories of persons referred to in Sub-section (1), which are not inconsistent with the provisions of this Act, shall continue to be applicable till they are modified or revoked, as the case may be.'

15. By a conjoint reading of Section 3 and Section 8, it is clear that a reserve category candidate mentioned in Sub-section (1) of Section 3 can be granted concession in respect of fee, upper age limit by the State Government. Sub-section (2) of Section 8 in fact continues the concession and relaxation granted by the Government orders in force on the date of commencement of the Act. The opening word of Sub-section (6) of Section 3 provides that 'if a person belonging to any of the categories mentioned in Sub-section (1) gets selected'. If a candidate belonging to reserved category has received a concession and relaxation as referred to in Section 8, the said candidate will still be a candidate belonging to reserved category and no exception has been created in Sub-section (6) of Section 3 while referring to reserve category candidate. From the scheme of the Act No. IV of 1994, it does not appear that the reserve category candidates who have been granted relaxation or concession in age or fees are not entitled for the benefit provided in Sub-section (6) of Section 3. By grant of relaxation and concession to reserve category candidates, the general category candidates are not prejudiced in any manner while competing with reserve category candidates who have received concession and relaxation. From the advertisement, which has

been appended as Annexure-1 to the writ petition, It is clear that the qualifying marks for preliminary qualifying examination as well as for physical test is same both for reserve category candidates and general category candidates. Further, qualifying marks for main written examination is also equal for general category candidates and reserve category candidates. It may be true that if at one stage in any examination, a reserve category candidate qualifies in written examination on different standard as to one which is prescribed for general category candidate, it can be said that both have not been selected on same standard in open competition. In those circumstances, it may be true that the reserve category candidates may not be entitled for the benefit of Section 3. Sub-section (6). But in the present case, since at any stage, reserve category candidates and general category candidates have not been judged by different standard, hence benefit of Section 3, subsection (6) cannot be denied to the reserve category candidates in the present case. Thus, the inclusion of 183 candidates belonging to reserve category candidates in general category candidates cannot be faulted and the same was in accordance with the provisions of Section 3, subsection (6).

16. Much emphasis has been laid down by the counsel for the petitioner Sri O. P. Misra on following observations made by the Apex Court in paragraph 5 of the judgment in Post Graduate institute of Medical Education and Research, Chandigarh and Ors. v. K.L. Narasimhan and Anr., (1997) 6 SCC 283. 'It is settled law that if a Dalit or Tribe candidate gets selected for admission to a course or appointment to a post on the basis of merit as general candidate, he should not be treated as reserved candidate. Only one who does get admission or appointment by virtue of relaxation of eligibility criteria should be treated as reserved candidate.' The aforesaid observations prima facie do support the contention of the petitioner but the aforesaid judgment was set aside by the three Judges Bench of the Apex Court on a review by five Judges Bench in Post Graduate Institute of Medical Education and Research, Chandigarh and Ors. v. Different Faculty of Association and Ors., 1998 (2)AWC 1300 (SC) : 1998 (4) SCC 1. Although while setting aside the judgment by five Judge Bench, nothing was said with regard to above mentioned observation made by three-Judge Bench but in view of the fact that earlier three-Judge Bench judgment has been set aside by subsequent judgment on review and in the subsequent judgment, nothing has been said about the

observations made earlier, the above said observation cannot be relied upon by the petitioner. Furthermore, the reservation in State of Uttar Pradesh is to be governed by the U. P. Act No. IV of 1994 which Act was also not into consideration by the three Judge Bench of the Apex Court.

17. The judgment of the Apex Court in K.N. Sreenivasan (supra) also does not help the petitioners since the said case pertains to promotion, and not the direct recruitment. Further, in U. P. Act No. IV of 1994, Section 3 (2), there is specific provision for holding special recruitment upto three times to fill up the reserved vacancies. Section 3 (3) provides that if in the third such recruitment referred to in Sub-section (3), suitable candidates belonging to the Scheduled Tribes are not available to fill the vacancy reserved for them, such vacancy shall be filled by persons belonging to the Scheduled Castes. Further, subsection (4) of Section 3 provides that if reserved vacancies remains unfilled even after special recruitment, it may be carried over to the next year. The above provisions by implication do not permit conversion of reserved vacancies for general category candidate.

18. It was further submitted by counsel for the petitioners that the unfilled reserved vacancies have not been carried forward in the next recruitment. Supplementary-affidavit has been filed in some cases bringing on the record copy of Advertisement of next recruitment. It is not necessary to adjudicate in this case as to whether unfilled reserved vacancies have been carried forward or not since that question has no relevance with regard to 1999 recruitment and cannot possibly have any affect on this recruitment.

19. In view of the aforesaid discussions, both the contentions of the petitioners has no merit.

20. The third contention raised by the counsel for the petitioner is that 52 left over vacancies belonging to women is to be filled by general category candidates only. Admittedly 67 vacancies earmarked for women were required to be filled up by applying criteria of reservation as provided in U. P. Act No. IV of 1994, if the said posts were not filled up, they will revert back to the male category candidates and while filling the aforesaid posts the applicability of U. P. Act No. IV of 1994 cannot be denied. The Government order dated 26.2.1999 has been filed as Annexure-1

to the rejoinder-affidavit. The said Government order do not specifically provide that the posts which are not filled up by women candidates are to be filled from different category candidates. Thus, no error has been committed by the respondents in applying reservation on left over 50 vacancies belonging to women Sub-Inspectors.

21. The fourth submission on behalf of the petitioner is that since several posts belonging to Other Backward Classes are vacant, they should be offered to the general category candidates specifically when number of persons declared selected in the written examination are less than number of posts. The aforesaid argument ignores the specific provisions of Sub-sections (2), (3) and (4) of Section 3. The aforesaid subsections (2), (3) and (4) of Section 3 are quoted below :

'3.(2) If even in respect of any year of recruitment, any vacancy reserved for any category of persons under Sub-section (1) remains unfilled, special recruitment shall be made for such number of times, not exceeding three, as may be considered necessary to fill such vacancy from amongst the persons belonging to that category.

(3) If, in the third such recruitment referred to in subsection (2), suitable candidates belonging to the Scheduled Tribes are not available to fill the vacancy reserved for them, such a vacancy shall be filled by persons belonging to the Scheduled Castes.

(4) Where, due to nonavailability of suitable candidates any of the vacancies reserved under Sub-section (1) remains unfilled even after special recruitment referred to in subsection (2), it may be carried over to the next year commencing from first of July, in which recruitment is to be made, subject to the condition that in that year, total reservation of vacancies for all categories of persons mentioned in Sub-section (1) shall not exceed fifty percent of the total vacancies.'

22. Thus, if in 1999 recruitment, any vacancy reserved for any category of person mentioned in Sub-section (1) remains unfilled, Sub-section (3) suggests recruitment can be made and if even after special recruitment, the vacancies are not filled up, the said vacancy may be carried over to the next year. Thus, it is not

open to the respondents to fill up unfilled vacancies belonging to the reserved categories of 1999 recruitment from general candidates. The aforesaid submission also cannot be accepted.

23. The fifth submission of the counsel for the petitioner is regarding wrong application of reservation of 2% posts in sports quota. Specific pleadings with regard to aforesaid fact has been made by the petitioner in paragraph 26 (D) of the writ petition. From the advertisement Annexure-1 to the writ petition, it appears that 2% posts were reserved for sportsmen for which recruitment notification was being separately published. From the averments made in paragraph 4 of the supplementary counter-affidavit, it is clear that out of 1,478 posts, 29 posts of Sub-Inspectors for sportsmen were deducted and the percentage for reservation was carved out by deducting 29 posts from the total post of Sub-Inspectors. The reservation has been shown to have been applied only against 1,350 posts. The Apex Court in *R. K. Sabharwal and Ors. v. State of Punjab and Ors.*, (1995) 2 SCC 745, has laid down difference between the horizontal and vertical reservation. The Apex Court in *Indra Sawhney and Ors. v. Union of India and Ors.*, 1992 Supp (3) SCC 217, has laid down that there are two types of reservation, namely, horizontal reservation and vertical reservation. Relevant portion of paragraph 812 is quoted below :

'There are two types of reservations, which may, for the sake of convenience, be referred to as 'vertical reservations' and 'horizontal reservations'. The reservation in favour of Scheduled Castes, Scheduled Tribes and Other Backward Classes under Article 16(4) may be called vertical reservations whereas reservations in favour of physically handicapped (under Clause (1) of Article 16) can be referred to as horizontal reservations. Horizontal reservations cut across the vertical reservations.....what is called interlocking reservations. To be more precise, suppose 3% of the vacancies are referred 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 Scheduled Caste category he will be placed in that quota by making necessary adjustments ; similarly, if he belongs to open competition (a) 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 citizen 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.'

24. The reservation for 2% of sportsmen has to be applied horizontally. If the said reservation is vertically applied, the percentage of reservation will exceed 50% and will 'be contrary to principles laid down in Indra Sawhney's case (supra), that reservation should not exceed 50%. Moreover, in view of above, the calculation of vacancy for general category candidates out of 1.350 posts only for Sub-Inspector is vitiated. For Sub-Inspector, the calculation of general category candidates ought to have been from figure 1,379, thus the number of general category candidates will come approximately 690. However, the candidates selected in the sport quota have to be adjusted in their respective category horizontally. In view of this, the petitioners are entitled for a direction to apply 2% reservation for sportsmen horizontally and the number of vacancies in general category have to be calculated according to law. The five posts were also shown to have belonging to sports quota in the post of Platoon Commander. The said figure was also entitled to be added while calculating the reservation in the post of Platoon Commander.

25. In view of the above, petitioners have made out a case for direction to apply 2% reservation of sport quota horizontally and the seats of general category candidates be accordingly calculated. However, it is provided by this judgment that no candidate already selected be affected by the said calculation and by this direction, selection already made has not to be affected in any manner. If after adjusting sportsmen selected in 2% quota horizontally, if any vacancy remains unfilled under general category candidates, the same shall be filled up from the candidates next in merit belonging to general category candidates.

26. The last submission of the counsel for the petitioner is that several candidates were not declared passed in the main written examination and were shown to have been selected in the final select list is to be considered. Reference has been made to three Roll Nos., namely, 633357, 480612 and 060007. It has been pleaded that they do not find place in the main examination result declared on

31.5.2001 but their names figured in the final result. It has been stated in paragraph 7 of the supplementary counter-affidavit that the aforesaid three candidates had not passed and their names were shown in the news paper by mistake. It has been stated that the candidates passed were with Roll Nos. 0600057, 0490612 and 0600007. It has been stated that the candidates whose names were wrongly shown in the news paper have not been sent for training and only those candidates who were declared pass in main written examination and interview have been sent for training. In view of the aforesaid fact, the contention of the petitioner cannot be accepted that persons have been wrongly shown to have passed in the final result.

27. In view of the foregoing discussions, none of the contentions of the petitioner can be accepted except the contention regarding 2% reservation for sports men. Relief claimed by the petitioner cannot be granted except the direction to the respondents to recalculate the number of posts of general category candidates by applying 2% reservation for sportsmen horizontally and adding 2% posts of sportsmen also while calculating the total number of vacancies of general category candidates. If after applying 2% reservation horizontally, any post in general category candidates quota remains vacant, the same shall be filled up by the general category candidates next in merit, it is, however, made clear that by the said exercise, the selection already made will not be affected in any manner.

28. All the writ petitions are disposed of with the aforesaid directions.

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