



\$~35 to 39

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of decision: 02.09.2025

(35)+ W.P.(C) 5080/2014

UNION PUBLIC SERVICE COMMISSIONPetitioner

Through: Mr. Naresh Kaushik, Sr. Adv.
along with Mr. Vardhman
Kaushik, Mr. Anand Singh, Mr.
Ravinder Agarwal, Mr. Manish
Kumar Singh and Mr. Vasu
Agarwal, Advs.

versus

SHANTI LAL BOURASI & ORS.Respondents

Through: Mr. Padma Kumar and Mr.
Gurpreet Singh, Advs.

(36)+ W.P.(C) 5793/2014

UNION PUBLIC SERVICE COMMISSIONPetitioner

Through: Mr. Naresh Kaushik, Sr. Adv.
along with Mr. Vardhman
Kaushik, Mr. Anand Singh, Mr.
Ravinder Agarwal, Mr. Manish
Kumar Singh and Mr. Vasu
Agarwal, Advs.

versus

M.R. MEENA & ORS.Respondents

Through: Mr. A.K. Behra, Sr. Adv. with
Mr. Amarendra P. Singh, Adv.
for R1
Mr. Amit Tiwari, CGSC with



Ms. Ayushi Srivastava, Mr.
Ayush Tanwar, Mr. Arpan
Narwal and Mr. Priyanshu,
Advs. for UOI

(37)+ W.P.(C) 6468/2014

UNION PUBLIC SERVICE COMMISSIONPetitioner

Through: Mr. Naresh Kaushik, Sr. Adv.
along with Mr. Vardhman
Kaushik, Mr. Anand Singh, Mr.
Ravinder Agarwal, Mr. Manish
Kumar Singh and Mr. Vasu
Agarwal, Advs.

versus

RAJEEV R. & ORS.Respondents

Through: Mr. Padma Kumar and Mr.
Gurpreet Singh, Advs. for R1
and R2

(38)+ W.P.(C) 11087/2015

UNION PUBLIC SERVICE COMMISSIONPetitioner

Through: Mr. Naresh Kaushik, Sr. Adv.
along with Mr. Vardhman
Kaushik, Mr. Anand Singh, Mr.
Ravinder Agarwal, Mr. Manish
Kumar Singh and Mr. Vasu
Agarwal, Advs.

versus

SATISH KUMAR GUPTA AND ORS.Respondents

Through: Mr. S. Sunil, Adv.
Mr. Akash Vajpai, Adv. for R8

(39)+ W.P.(C) 9741/2015 & CM APPL. 62212/2023



UNION PUBLIC SERVICE COMMISSION

.....Petitioner

Through: Mr. Naresh Kaushik, Sr. Adv.
along with Mr. Vardhman
Kaushik, Mr. Anand Singh, Mr.
Ravinder Agarwal, Mr. Manish
Kumar Singh and Mr. Vasu
Agarwal, Advs.

versus

RAJEEV KUMAR SAHA & ORS

.....Respondents

Through: Ms. Mahamaya Chatterjee, GP
with Mr. Akash Dubey, Adv.
for UOI
Mr. S. Sunil, Adv.

CORAM:**HON'BLE MR. JUSTICE NAVIN CHAWLA****HON'BLE MS. JUSTICE MADHU JAIN****NAVIN CHAWLA, J. (ORAL)**

1. These batch of writ petitions challenge the Orders passed by the learned Central Administrative Tribunal, Principal Bench, New Delhi (hereinafter referred to as the 'Tribunal'), details of which are given here as under: -

O.A. No.	Date of Orders	Writ Petitions No.
O.A.4141/2012	31.01.2014	W.P.(C) 5080/2014 (35)
O.A.4082/2012	31.01.2014	W.P.(C) 5793/2014 (36)
O.A.4135/2012	31.01.2014	W.P.(C) 6468/2014 (37)
O.A.2528/2014	30.04.2015	W.P.(C) 11087/2015 (38)
O.A.361/2015	26.03.2015	W.P.(C) 9741/2015 (39)

2. As these writ petitions relate to similar examinations and raise almost similar pleas in challenge to the Impugned Orders, they are being taken up together for adjudication. For the sake of brevity, the



facts in W.P.(C) 5080/2014, W.P.(C) 5793/2014 and W.P.(C) 6468/2014 are being given hereinbelow:

3. The Department of Personnel and Training (DoP&T) issued the Combined SOs/Steno Grade LDCE- 2006, 2007 and 2008 (hereinafter referred to as 'the Rules') on 28.08.2010, and requested the petitioner-UPSC to provide a total 406 candidates through the SOs/Steno's Grade LDCE- 2006, 2007 & 2008. The vacancy position notified for each of the three years was as follows: -

<i>SOs Grade LDCE-Year</i>	<i>Vacancy Position</i>		
	<i>Gen</i>	<i>SC</i>	<i>ST</i>
<i>2006</i>	<i>59</i>	<i>38</i>	<i>31</i>
<i>2007</i>	<i>68</i>	<i>64</i>	<i>20</i>
<i>2008</i>	<i>111</i>	<i>10</i>	<i>05</i>
<i>Total</i>	<i>238</i>	<i>112</i>	<i>56</i>

4. Pursuant to the common examination conducted by the petitioner-UPSC, the UPSC declared the final result in September, 2011 recommending 330 candidates against 406 vacancies. The year wise data of the same is as under: -

<i>SOs Grade LDCE-Year</i>	<i>Vacancy Position</i>			<i>Recommended by UPSC</i>			<i>Finally filled up Vacancy by DoPT</i>			<i>Unfilled vacancies</i>		
	<i>Gen</i>	<i>SC</i>	<i>ST</i>	<i>Gen</i>	<i>SC</i>	<i>ST</i>	<i>Gen</i>	<i>SC</i>	<i>ST</i>	<i>Gen</i>	<i>SC</i>	<i>ST</i>
<i>2006</i>	<i>59</i>	<i>38</i>	<i>31</i>	<i>59</i>	<i>38</i>	<i>11</i>	<i>58</i>	<i>37</i>	<i>11</i>	<i>01</i>	<i>01</i>	<i>20</i>
<i>2007</i>	<i>68</i>	<i>64</i>	<i>20</i>	<i>68</i>	<i>28</i>	<i>Nil</i>	<i>68</i>	<i>27</i>	<i>-</i>	<i>00</i>	<i>37</i>	<i>20</i>
<i>2008</i>	<i>111</i>	<i>10</i>	<i>05</i>	<i>111</i>	<i>10</i>	<i>05</i>	<i>110</i>	<i>10</i>	<i>05</i>	<i>01</i>	<i>-</i>	<i>-</i>
<i>Total</i>	<i>238</i>	<i>112</i>	<i>56</i>	<i>238</i>	<i>76</i>	<i>16</i>	<i>236</i>	<i>74</i>	<i>16</i>	<i>02</i>	<i>38</i>	<i>40</i>

5. The DoP&T, *vide* communications dated 25.04.2012 and 22.08.2012, requested the petitioner-UPSC to release the supplementary list for 80 vacant positions of SOs/Steno's Grade LDCE- 2006, 2007 and 2008. The petitioner-UPSC, however, rejected



the said proposal, on the ground that the provision of reservation policy provided in O.M. dated 20.07.2000 had not been incorporated in the Rules of Examination notified by the DoP&T, and therefore, it had no mandate to factor in unfilled vacancies for SC/ST categories and had recommended the SC/ST candidates based on the vacancies reported for each of the three years.

6. Challenging the same, the above O.A.s were filed by the respondents herein.

7. The learned Tribunal, by way of the Impugned Orders, has placed reliance on the Judgment of the Supreme Court in *Manoj Manu v. Union of India*, (2013) 12 SCC 171, and as noted hereinabove, has allowed the O.As. filed by the respondents herein.

8. Challenging the same, the petitioners have filed this present petition.

9. The learned Senior Counsel for the petitioner submits that the learned Tribunal has failed to appreciate that a common examination and selection process was conducted for the vacancy year 2006, 2007 and 2008. In terms of the Rules, if sufficient number of candidates were not available for filling up the vacancies in the cadre/unit, such vacancies were to be carried forward to the next 'recruitment year', which would be the next selection process undertaken by the UPSC. He submits that the said subsequent selection process was conducted in the year 2013 for the years 2009, 2010 and 2011, in which the leftover vacancies for the years 2006, 2007 and 2008 were also added and, in fact, stood filled even prior to the passing of the Impugned Orders by the learned Tribunal.



10. He submits that therefore, the Judgment of the learned Tribunal is not only contrary to the Rules, but also has failed to appreciate that no vacancies remain with the DoP&T for being filled up.

11. He further submits that this was a common examination for almost nine services and, therefore, to carry forward the vacancies within the recruitment process would have caused administrative complications. Therefore, the petitioner-UPSC was not inclined to accept the request of the DoP&T to issue a supplementary list/result.

12. He further submits that pursuant to direction dated 12.02.2015 of this Court, a joint meeting was convened under the chairmanship of the Secretary (P), DoP&T and with Secretary, UPSC, on 04.03.2015, wherein a unanimous decision was taken accepting the stand of the UPSC to the following effect:

“5. ...(i) Since the LDCE for the years 2006-2008 was conducted as a single combined examination in December, 2010 catering to a total of 9 categories under different services like CSS, CSSS, MEA, FHQ, Railway Board, Intelligence Bureau to clear their arrears, it was considered a single recruitment process and accordingly the vacancies remaining unfilled therein will be carried forward to the next recruitment year. The next recruitment examination was held in Dec, 2012 which was again a combined examination for the years 2009-2011 and the vacancies remaining unfilled for the years 2006-2008 were carried forward to this recruitment year.”

13. He submits that therefore, the Impugned Order of the learned Tribunal are liable to be set aside.

14. The learned counsel for the DoP&T supports the submissions of the learned senior counsel appearing for the petitioner.



15. On the other hand, the learned Senior Counsel appearing for respondents, submit that though a common examination was held in the year 2010, the recruitment year 2006, 2007 and 2008 were treated as separate for purposes of selection. He submits that this is evident from the fact that not only separate vacancy positions were stipulated for each of these years, but also, separate eligibility criteria settled and separate results declared for the three recruitment years.

16. He submits that in terms of the Rules, therefore, the vacancies left unfilled for the recruitment year 2006 were to be carried forward to the recruitment year 2007, and for the year 2007 to the recruitment year 2008. He submits that applying the said principle, the DoP&T requested the UPSC to send the supplementary list for the unfilled vacancies, however, the UPSC wrongly rejected this request.

17. He submits in the facts of the present case, the Judgment of *Manoj Manu* (supra) would squarely apply and no fault can be found with the Judgment of the learned Tribunal in this regard.

18. The learned counsel for the respondents in W.P.(C) 6468/2014, further submits that in the said case, in the initial result declared by the UPSC, two candidates against unreserved category were recommended, who had already resigned from service prior to the declaration of the result. This anomaly was brought to the notice of the UPSC by the DoP&T, however, in spite of the O.M. dated 14.07.1967 as explained by the Supreme Court in *Manoj Manu* (supra), the UPSC declined to recommend the names of the respondents who had secured same marks as the last candidate who had been recommended earlier by the UPSC. He submits that, therefore, no fault can be found with the learned



Tribunal in following the Judgment of the Supreme Court in *Manoj Manu* (supra) in granting relief to the respondents.

19. We have considered the submissions made by the learned counsels for the parties.

20. Though, the recruitment process was for the year 2006, 2007 and 2008 by way of a common examination, the Rules specified separate eligibility for the candidates for the ‘2006 examination’, ‘2007 examination’, and ‘2008 examination’. It further provided that the candidates eligible for the ‘2006 examination’ are also eligible for ‘2007 examination’ and ‘2008 examination’ subject to fulfillment of all other eligibility conditions and provided such candidates specifically opt to be so considered, and similarly, candidates eligible for 2007 examination are also eligible for 2008 examination, subject to fulfillment of all other eligibility conditions and provided such candidates specifically opt to be so considered. We quote from the Rules as under:-

“3. Permanent or regularly appointed temporary Officers of the Grade and Services mentioned in column 1 below who on 1st July, of the respective year satisfy the conditions regarding length of service mentioned in column 2 shall be eligible to appear at the examination for the category of service mentioned-in column 3.

Crucial date for eligibility

1st July, 2006 for 2006 Examination

1st July, 2006 for 2007 Examination

1st July, 2006 for 2008 Examination

Note:

1. Candidate (s) eligible for 2006 Examination are also eligible for 2007 &



2008 Examination subject to fulfilment of all other eligibility conditions and provided candidate specifically opts to be so considered.

2. Candidate(s) eligible for 2007 Examination are also eligible for 2008 Examination subject to fulfilment of all other eligibility conditions find provided candidate specifically opts to be so considered.”

21. As noted hereinabove, the number of posts for which recruitment was to be made were also specified year wise and not in a combined manner.

22. Rule 8 of the Rules further provided that after the examination, candidates shall be considered for vacancies in all the three years, that is, 2006, 2007 and 2008, subject to the eligibility and ‘year wise’ and ‘category wise’ merit list, for inclusion in the respective selection list. Therefore, though a common examination was being held, the result was to be declared year wise. The same is also evident from the chart which we have reproduced hereinabove.

23. Given the said position, in terms of Rule 12(a) and 12(b) of the Central Secretariat Rules, 2009 (‘CCR Rules’), if sufficient number of candidates were not available for filling up of vacancies in any recruitment year, that is, in the year 2006 or 2007, respectively, they were to be carried forward to the next recruitment year, that is, year 2007 or 2008, respectively. We quote the relevant rule as under:-

“(a) The regular vacancies in the Section Officers’ Grade shall be filled fifty percent through Limited Departmental Competitive Examination and fifty percent by appointment of persons included in the Select List for the



Section Officers' Grade.

(b) The rules for the Limited Departmental Competitive Examination referred to above shall be determined by regulations made by the Department of Personnel and Training and the allotment of candidates from the result of this examination to the various cadre units shall also be made by the Department.

Provided that if sufficient number of candidates are not available for filling up the vacancies in a cadre unit in any recruitment year either by Limited Department seniority, the unfilled vacancies shall be carried and added to the number of vacancies of the same mode of recruitment to be filled in the next recruitment year.

Provided further that no such unfilled vacancies shall be carried forward for more than two; recruitment years, beyond the year to which the recruitment relates, where after the vacancies if any, still remaining unfilled belonging to one mode of recruitment shall be transferred as additional vacancies for the other mode of recruitment."

24. The petitioner, however, treating the entire exercise to be one examination, refused to apply the above Rule, which is totally incorrect and has been rightly not accepted by the learned Tribunal.

25. By its Impugned Order, the learned Tribunal has also placed reliance on the Judgment of ***Manoj Manu*** (supra), wherein it had been *inter alia* been held as under:

"4. Before the High Court, the appellants submitted that they were not questioning the aforesaid reason given by the Tribunal determining inter-se merit position of the candidates who qualified the written test. Instead, their argument was that the Tribunal lost sight of the actual plea taken viz. when there were sufficient vacancies available and even as per the letter sent by the DOP&T vide



its letter dated 20th November 2009 names of 6 candidates were requisitioned, there was no reason not to forward the names of the appellants for the appointment. The appellants relied upon Clause 4(c) of the Office Memorandum dated 14th July 1967 in support of their aforesaid contention. This Clause is reproduced herein below:

4(c) Once the results are published, additional persons should not normally be taken till the next examination. Nor should vacancies reported before declaration of the results. If, however, some of the candidates recommended/allotted for appointment against the specific number of vacancies reported in respect of a particular examination do not become available for one reason or another, the Commission may be approached, within a reasonable time, with request for replacements from reserved, if available. When replacements may not be available, the vacancies that may remain unfilled should be reported to the Commission for being filled through the next examination.

xxx

13. In the present case, however, we find that after the UPSC sent the list of 184 persons/recommended by it, to the Government for appointment six persons out of the said list did not join. It is not a case where the Government decided not to fill up further vacancies. On the contrary DoP&T sent requisition to the UPSC to send six names so that the remaining vacancies are also filled up. This shows that in so far as Government in concerned, it wanted to fill up all the notified vacancies. The requisition dated 20th November 2009 in this behalf was in consonance with its Clause 4(c) of O.M. dated 14th July 1967. Even when the Government wanted to fill up the post, the UPSC chose to forward names of three candidates.

xxx

16. It is not the case of the UPSC that under



no circumstances the names are sent by way of supplementary list, after sending the names of the candidates equal to the vacancies. As per the UPSC itself, names of “report/common” candidates are sent and in the present case itself, three names belonging to such category were sent. However, exclusion of the persons like the appellants has clearly resulted in discrimination as one of those three candidates Rajesh Kumar Yadav had also secured 305 marks and once he was appointed to the post in question, the appellants with same marks have been left out even when the vacancies were available.

17. We are, therefore, of the opinion in the facts of the present case, the decision of UPSC in forwarding three names against requisition of DOP&T for six vacancies was inappropriate. We, accordingly, allow the present appeal, set aside the order of the High Court as well as Tribunal and issue Mandamus to the UPSC to forward the names of the next three candidates to the DoP&T for appointment to the post of Section Officer’s Grade. They shall get the seniority from the date when Rajesh Kumar Yadav was appointed to the said post. Their pay shall notionally be fixed, without any arrears of the pay and other allowances.”

26. Thought the DoP&T had placed reliance on the O.M. dated 20.07.2000 for carrying forward the reservation, in the present case, in view of the Rule 12(a) and 12(b), of the CCR Rules 2009 the vacancies had to be carried forward, due to the presence of the said Rules. The interpretation placed by the UPSC to Rule 12 (a) and 12(b) of the CCR Rules 2009 was therefore, erroneous and not acceptable.

27. For the said reason, even the respondents in W.P.(C) 6468/2014, though they did not belong to the reserved category, were also entitled to the relief of carry forward of the vacancies.



28. As far as the plea of the learned Senior Counsel for the petitioner that in the subsequent recruitment process, the leftover vacancies had been added to the vacancies for the years 2009, 2010 and 2011, the same is the own doing of the relevant Department. We are informed that, the future recruitment process was made subject to the outcome of the O.As. even before the learned Tribunal and in the writ petitions pending before this Court. This was also mentioned in the advertisement as also in the orders of appointment.

29. Be that as it may, for their own actions against the Rules, the petitioner and the DoP&T cannot be permitted to make the respondents suffer.

30. Accordingly, we find no merit in the present petitions. The same are dismissed.

31. As far as W.P.(C) 11087/2015 and W.P.(C) 9741/2015 are concerned, though they relate to the promotion to the post of Section Officers and Private Secretaries in the Railway Board, the Rules applicable are identical to the ones which we have discussed hereinabove. The same, therefore, meet the same fate, that is, the writ petitions are dismissed accordingly.

NAVIN CHAWLA, J

MADHU JAIN, J

SEPTEMBER 2, 2025/ys/p/ik