



\* IN THE HIGH COURT OF DELHI AT NEW DELHI

Reserved on: 13<sup>th</sup> January, 2026.

Pronounced on: 17<sup>th</sup> February, 2026.

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+ **W.P.(C) 9359/2025, CM APPL. 39593/2025, CM APPL. 49493/2025 & CM APPL. 1998/2026**

GAURAV VERMA & ORS. ....Petitioners

Through: Mr. Ramesh Chandra Singh, Ms. Prakriti Roy, Advocates.

versus

AIRPORT AUTHORITY OF INDIA & ANR. ....Respondents

Through: Mr. Amit Bardhan Mohanty, Dr. Neelankshi Choudhary, Mr. Raveesh Kumar Tripathi, Advocates for R-1 and R-2 with Mr. Y.S. Choudhary, Manager (Law), AAI. Ms. Pratima N. Lakra, CGSC with Mr. Shailendra Kumar Mishra, Ms. Mansi Aggarwal, Mr. Chanakya, Advocates for R-3.

**CORAM:**

**HON'BLE MR. JUSTICE SANJEEV NARULA**

**JUDGMENT**

**SANJEEV NARULA, J.:**

1. The Petitioners assail their non-inclusion in the list of candidates called for document verification for recruitment to Non-Executive Cadres of the Airport Authority of India,<sup>1</sup> Northern Region, with document

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<sup>1</sup> "AAI"



verification scheduled on 9<sup>th</sup> July, 2025 and 10<sup>th</sup> July, 2025.

2. The case, though set-up as a grievance of “merit being ignored”, turns on a narrower legal axis. The Petitioners are ex-servicemen. The subject recruitment provides horizontal reservation for the category of “ex-servicemen”. The Petitioners assert that they secured marks higher than the last shortlisted candidate in the unreserved segment and, therefore, deserve to “migrate” to the unreserved category<sup>2</sup> for the purpose of being called for document verification.

3. The Respondents resist the petition on the foundation that the Petitioners were over the prescribed unreserved upper-age limit and could participate in the recruitment process only by availing age relaxation as ex-servicemen. In such circumstances, they cannot claim to be considered against unreserved vacancies. The Respondents also rely on DoPT communications/ material placed on record, which treats reservation for ex-servicemen as ‘horizontal’, but maintains that an ex-serviceman belonging to the unreserved category can be considered for an unreserved post only if eligibility, including age, is satisfied without availing relaxation; if age relaxation is availed, consideration is confined to the ex-servicemen quota.

### **Factual Matrix**

4.1. In February 2025, the Respondents issued Advertisement No. 01/2025/NR, inviting applications for recruitment to various Non-Executive cadres of AAI in the Northern Region. The Petitioners applied under the Ex-Servicemen category.<sup>3</sup> A computer-based written examination was conducted pursuant to the Advertisement, wherein the Petitioners secured

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<sup>2</sup> “UR category”

<sup>3</sup> “ESM category”



59, 60 and 65 marks, respectively.

4.2. The dispute arose upon declaration of the cut-off scores and publication of the list of candidates shortlisted for document verification. This merit-based shortlist was prepared on the basis of marks obtained and category-wise cut-off scores; the cut-off for the UR category was fixed at 59 marks, whereas the cut-off for ESM category was 66 marks. According to the Petitioners, these scores entitled them to be considered and shortlisted under the UR category.

#### **Petitioners' Case**

5. The Petitioners rely on the proposition that unreserved vacancies are “open” and must be filled on merit from among all candidates, including those who belong to reserved classes. They draw attention to the list published for document verification, which reflects that candidates under the ESM category were called for document verification in descending order of marks, ranging from 81 to 66, whereas the cut-off prescribed for the UR category was 59 marks.

6. The Petitioners claim their marks should have secured them a place at least within the unreserved pool, and that exclusion is arbitrary. It is contended that, since the Petitioners secured marks higher than the last candidate shortlisted in the UR category, the denial of document verification is unlawful. Their case is framed as an illegality in the treatment of horizontal reservation, and, more specifically, as an impermissible denial of the benefit of competing for unreserved seats.

7. They argue that relaxation is an aid, not a bar. As per the principle in the judgement of the Supreme Court in *Jitendra Kumar Singh & Anr. v.*



***State of U.P. & Ors.***<sup>4</sup> age relaxation is a concession to create a level playing field. It does not lower the standard of merit. Once the candidate enters the competition and proves their merit by scoring above the General cut-off, they must be allowed to “migrate” to the UR category.

8. It is contended that the AAI has failed to demonstrate the existence of any statutory embargo prohibiting the Petitioners from migrating to the unreserved pool. Reliance is placed on the recent judgment in ***Union of India v. Sajib Roy***,<sup>5</sup> wherein the Supreme Court held that, in the absence of a specific “embargo” in the recruitment rules or the notification, candidates belonging to reserved categories, who secure higher marks than unreserved candidates, are entitled to migrate to the unreserved category.

9. Further, in ***Rajasthan High Court vs. Rajat Yadav***,<sup>6</sup> the Supreme Court reaffirmed that reservation is a means of inclusion, and that meritorious reserved candidates should not be disadvantaged by the shortlisting process. Accordingly, the Petitioners urge that the Respondents be directed to treat them as UR category candidates based on their merit and include them in the selection/appointment process for the unreserved vacancies.

### **Respondents' Case**

10. The Respondents emphasise the nature of ex-servicemen reservation as horizontal. It “cuts across” vertical categories and operates as an interlocking reservation. However, candidates who avail age relaxation cannot claim consideration against UR vacancies on “own merit” unless they satisfy the unreserved standards without availing any

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<sup>4</sup> (2010) 3 SCC 119.

<sup>5</sup> 2025 SCC OnLine SC 1943.



relaxation/concession.

11. The Respondents specifically contend that eligibility for a UR vacancy requires satisfaction of the general age limit without availing any age relaxation applicable to ex-servicemen. The upper age limit, as per the subject advertisement, is 30 years. The Petitioners are admittedly around 38 years of age and have availed the benefit of age relaxation as ex-servicemen in terms of Clause 3 of the advertisement. Their participation, therefore, rests on age relaxation, which is a concession attached to ex-servicemen status. Once that concession is availed, the Petitioners cannot demand consideration against the UR vacancies on “own merit”. Their consideration is confined to the earmarked horizontal ex-servicemen quota.

12. To reinforce this, the Respondents rely on DoPT O.M. dated 1<sup>st</sup> July, 1998 and DoPT letter dated 25<sup>th</sup> September, 2025. This letter, while reiterating that reservation for ex-servicemen is horizontal, states in terms that an ex-serviceman can be considered for an unreserved post only if all eligibility criteria, including age, are met without any relaxation; if age relaxation is availed, consideration is confined to the specific ex-servicemen quota within the unreserved category.

13. Reliance is also placed on AAI policy (CHRM Circular No. 34(b)/2019) to submit that, for the stage of document verification, candidates are shortlisted category-wise in the ratio of 1.5 times the number of vacancies (including candidates at the same cut-off). Since the Petitioners did not fall within the “merit zone” computed for ex-servicemen candidates, they were not called for document verification.

14. The Respondents submit that the Petitioners’ claim for UR

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<sup>6</sup> 2025 INSC 1503.



consideration despite availing age relaxation runs contrary to settled law. Reliance is placed on *Saurav Yadav v. State of Uttar Pradesh*<sup>7</sup> and *Rajesh Kumar Daria v. Rajasthan Public Service Commission*,<sup>8</sup> to contend that the jurisprudence distinguishes candidates competing in open category purely on the general standard from those who enter by availing category-linked relaxations.

15. They further rely on DoPT's articulation that, in cadres/posts where reservation for ex-servicemen is provided, a situation may arise where the reserved ex-servicemen posts are filled; in such a case, ex-servicemen who could not qualify against the reserved vacancies may not be appointed against UR vacancies even if they have scored higher marks than the last selected unreserved candidate.

### Analysis

16. On the pleadings and the record placed, the questions that fall for determination are as follows:

- 16.1. Whether the Petitioners can claim consideration in the UR category at the stage of being called for document verification, despite having availed age relaxation as ex-servicemen;
- 16.2. Whether, in a recruitment that provides horizontal reservation for ex-servicemen, the Petitioners' reliance on the principle of "migration" to the UR category overrides an executive/statutory embargo that treats age relaxation as disabling such migration; and
- 16.3. Whether any arbitrariness or illegality is shown in the shortlisting for document verification to warrant interference in writ jurisdiction.

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<sup>7</sup> (2021) 4 SCC 542.

<sup>8</sup> (2007) 8 SCC 785.



*Vertical and horizontal reservation: what “horizontal” means in operational terms.*

17. Reservation jurisprudence draws a clear doctrinal distinction between vertical (social) reservation and horizontal (special) reservation. The Supreme Court in ***Rajesh Kumar Daria***, referring to the judgement in ***Indra Sawhney v. Union of India***,<sup>9</sup> explained that vertical reservations are those in favour of Scheduled Castes, Scheduled Tribes and Other Backward Classes under Article 16(4), while horizontal reservations are special reservations, such as for women or persons with disabilities, and cut across vertical categories as interlocking reservations.

18. The mechanics is equally clear. The proper method is: first, fill the open competition quota on merit; then fill each social reservation quota; thereafter, ascertain how many candidates belonging to the horizontal category have been selected, and if there is a shortfall, adjust within the respective vertical category by replacing from the bottom.<sup>10</sup> ***Rajesh Kumar Daria*** also clarifies why the logic of “migration” in vertical reservation does not transpose in the same manner to horizontal reservation. For vertical reservation, candidates belonging to a backward class who secure selection in open competition do not consume the reserved quota. But for horizontal reservation, women or similarly placed candidates selected on merit within the vertical quota are counted towards the horizontal quota, and only any shortfall is made up by substitution from within that category.

19. Translating this to ex-servicemen reservation, which is also horizontal, the correct approach is to treat the ex-servicemen quota as an

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<sup>9</sup> 1992 Supp (3) SCC 217.

<sup>10</sup> Anil Kumar Gupta v. State of U.P., (1995) 5 SCC 173.



interlocking reservation across categories. However, the present controversy does not turn on the methodology of adjustment post selection. The issue is not with respect to how selected candidates are to be accommodated within the respective vertical categories. Rather, the core question is whether the Petitioners, having admittedly availed the benefit of age relaxation, can at all claim entitlement to be considered against UR vacancies.

*“Merit” in the unreserved pool and the role of concessions: the competing lines of authority*

20. The Petitioners' broad submission borrows from a familiar principle: an unreserved vacancy is open to all; a reserved category candidate who secures selection on merit should not be denied a place in the unreserved pool merely because of category.

21. In *Jitendra Kumar Singh*, the Supreme Court observed that concessions and relaxations in fee or age only give a wider opportunity to compete and do not dilute the standard of selection, based on merit in a competitive examination. The decision further records that where a reserved category candidate is selected on merit, the mere fact that such candidate had availed age relaxation does not, by itself, mean that selection was not “on merit”. However, the said decision turned on the specific rules and circulars under consideration therein and cannot be treated as laying down an absolute proposition of law. Subsequent jurisprudence, and executive frameworks governing central recruitment, proceed on the understanding that the permissibility of counting a reserved category candidate against an unreserved vacancy depends on whether the governing rules/instructions treat any relaxation as an “advantage” that disqualifies migration.

22. The Supreme Court, in *Rajat Yadav*, reiterated the general rule that



reserved category candidates who secure merit at or above the last unreserved candidate are entitled to be adjusted in the UR category. However, the Court also recorded the counter-position, supported by prior decisions, that reserved category candidates who have availed relaxation in age are considered within the reserved category and not as unreserved. Pertinently, the decision also carries a cautionary note. The Court recorded that its observations would apply where the rules or executive instructions do not ordain otherwise, and where the relevant circular does not stipulate an express bar. In other words, the principle of “migration” is not a free-floating doctrine. It operates within the architecture created by the rules and the instructions governing recruitment. Where the applicable framework treats age relaxation as disabling migration, the Court’s role is not to rewrite the policy, but to test legality and rationality.

*The executive embargo in the present case*

23. The DoPT’s letter dated 25<sup>th</sup> September, 2025, placed on record, clarifies their stand in the specific context of ex-servicemen. It states: Reservation for ex-servicemen is horizontal and cuts across vertical categories. However, “the principle of not availing relaxations” continues to apply in the unreserved category. An ex-serviceman belonging to the unreserved category can be considered for a UR post only if all eligibility criteria, including age, are met without any relaxation. If age relaxation has been availed, the candidate is to be considered within the ex-servicemen quota within the unreserved category. Therefore, it is amply clear that the governing rule in the present case treats age relaxation as a disabling factor for migration into the unreserved category.

24. The letter also records the DoPT’s stand on the precise situation the



Petitioners put forth as an “anomaly”. Where reservation for ex-servicemen is provided and such vacancies get filled, an ESM candidate who could not qualify against the reserved vacancies may not be appointed against UR vacancies even if marks are higher than the last selected unreserved candidate. This position, on its face, answers the question framed by the Court in the proceedings, namely: whether taking benefit of age relaxation disentitles a more meritorious ex-servicemen candidate to a seat in the open category as opposed to an unreserved candidate lower in merit.

*Whether the Petitioners could claim inclusion in the UR Document Verification list despite having availed ESM age relaxation*

25. The Petitioners essentially seek the benefit of two different planes: first, eligibility to participate by using age relaxation reserved for ex-servicemen; and second, treatment as an unreserved candidate for the purpose of being called for document verification and eventual selection against unreserved vacancies.

26. The record reveals that the Petitioners were outside the UR age limit and entered the process only by availing age relaxation as ESM candidates, a position not disputed by the Petitioners. Once that factual foundation stands, the legal consequence follows: a candidate who relies on a category-linked relaxation to cross the eligibility barrier cannot simultaneously demand treatment as an unreserved candidate for the purpose of being called against UR vacancies. The Petitioners, therefore, cannot insist on being treated as candidates for UR vacancies, even if their marks exceed those of some candidates called in the unreserved segment.

*The “horizontal” character of ex-servicemen reservation does not neutralise the embargo*



27. The Petitioners submit that these are cases of horizontal reservation and, therefore, the vertical rule of non-migration upon availing relaxation should not apply. The submission rests on a category error. The distinction drawn in **Rajesh Kumar Daria** between vertical and horizontal reservation concerns the method of adjustment and counting, after the selection list is prepared. It does not compel the appointing authority to treat a candidate as “unreserved” if the candidate entered the competition by using a concession that is not available to an unreserved candidate.

28. Horizontal reservation “cuts across” vertical categories, meaning that ex-servicemen candidates are placed in their respective vertical categories and then adjusted to meet the horizontal quota. That principle operates on the assumption that the candidates being compared within the unreserved pool are similarly situated on the eligibility plane applicable to that pool.

29. If a candidate’s entry into the competition is permitted only by virtue of a concession that the unreserved pool cannot access, the playing field is no longer the same. In such a setting, permitting the candidate to be counted against unreserved vacancies can alter the intended distribution of posts and defeat the policy purpose of carving out a limited horizontal quota for ex-servicemen, which is meant to operate as a specific rehabilitative measure.

30. The DoPT material placed on record adopts precisely this rationale. It recognises the rehabilitative aim of ex-servicemen reservation while maintaining a boundary so that unreserved vacancies remain available to those who meet unreserved criteria without concessions.

*Whether the non-calling of the Petitioners for document verification is illegal when the ESM cut-off for document verification is higher than UR cut-off*



31. The Respondents explain that document verification is not an open-ended call. It is structured category-wise through a 1.5-times shortlisting zone under CHRM Circular No. 34(b)/2019. Once shortlisting is category-wise, the cut-off for being called for document verification can differ across categories, since it is not the final act of selection but a controlled funnel. The Respondents, therefore, justify the ESM cut-off of 66, not as a statement of “higher merit requirement for ESM”, but as a consequence of category-wise shortlisting based on the number of earmarked vacancies and the 1.5-times zone.

32. If the recruitment proceeds on category-wise shortlisting for document verification, and the Petitioners were admittedly processed in the ESM stream due to age relaxation, then the correct question is not whether the Petitioners crossed the UR cut-off, but whether they fell within the ESM shortlist prepared in the ratio prescribed by policy. On the Respondents’ case, the answer is in the negative.

*The “fresh blood” and cadre balance rationale: relevance in judicial review*

33. The additional affidavit of AAI also advances a policy justification: ex-servicemen enter civil posts with a shorter residual tenure, and excessive inflow beyond prescribed norms may disturb cadre planning and the intended balance between entrants beginning a career and ex-servicemen seeking re-settlement.

34. Strictly speaking, the case does not require adjudication on that policy wisdom. The legal issue is already resolved by the eligibility bar reflected in the DoPT material. However, the policy rationale provides necessary context, and explains why the executive may reasonably choose to confine candidates who availed age relaxation to the ex-servicemen quota, rather



than permit them to displace candidates in the unreserved pool.

35. In judicial review, the Court does not sit in appeal over the terms of the recruitment policy. Interference follows only when policy is *ultra vires*, manifestly arbitrary, or violates constitutional limits. No such infirmity is shown here. The restriction is grounded in a rational differentiation. Candidates who qualify within the unreserved age band compete on one plane. Candidates who cross that age band but enter through an ex-servicemen concession compete on another plane. The policy does not denude ex-servicemen of the benefit. It channels that benefit to the quota created for them.

### **Conclusions**

36. The conclusions emerging from the aforesaid discussion may be summarised as follows:

37.1. Ex-servicemen reservation is a horizontal reservation cutting across vertical categories. The method of implementing horizontal reservation, as explained in ***Rajesh Kumar Daria***, requires adjustment within categories after selection on merit.

37.2. The principle that a reserved category candidate can be adjusted against unreserved vacancies based on merit is subject to the governing recruitment rules and executive instructions, as also recognised in ***Rajat Yadav***.

37.3. The DoPT position placed on record clarifies that an ex-serviceman can be considered for an unreserved post only if the eligibility criteria, including age, are met without availing any relaxation; if age relaxation is availed, consideration is confined to the ex-servicemen quota within the unreserved category.



37.4. The DoPT position further clarifies that where reservation for ex-servicemen is provided and reserved posts are filled, ex-servicemen who could not qualify within the reserved vacancies may not be appointed against unreserved vacancies even if their marks exceed those of the last selected unreserved candidate.

37.5. The Petitioners' participation is predicated on age relaxation as ex-servicemen. They, therefore, cannot claim a right to be treated as candidates for unreserved vacancies for the purpose of shortlisting and document verification. Their consideration lies within the ex-servicemen horizontal quota. Once the record shows they were not within the ex-servicemen shortlisting boundary, no mandamus can be issued to include them in the document verification list by treating them as unreserved candidates.

38. The writ petition is, therefore, dismissed. Pending applications, if any, also stand disposed of.

**SANJEEV NARULA, J**

**February 17, 2026/ab**