

**IN THE HIGH COURT OF HIMACHAL PRADESH
AT SHIMLA**

CWPOA No 2488 of 2019
a/w CWPOA Nos 2550,
7668, 7671, 7674, 7675
of 2019 and 6204 of 2020.

Decided on: 23.12.2025.

1. CWPOA No.2488 of 2019

Hitesh Kumar & Others ...Petitioners

Versus

State of Himachal Pradesh ...Respondents
& Others

2. CWPOA No.2550 of 2019

Arif Hussain & Others ...Petitioners

Versus

State of Himachal Pradesh ...Respondents
& Others

3. CWPOA No.7668 of 2019

Umesh Kumar Minhas & Another ...Petitioners

Versus

State of Himachal Pradesh ...Respondents
& Others

4. CWPOA No.7671 of 2019

Jiwan Singh ...Petitioner

Versus

State of Himachal Pradesh ...Respondents
& Another

5. CWPOA No.7674 of 2019

Mohan Singh ...Petitioner

Versus

State of Himachal Pradesh ...Respondents
& Another

6. CWPOA No.7675 of 2019

Love & Another ...Petitioners

Versus

State of Himachal Pradesh ...Respondents
& Others

7. CWPOA No.6204 of 2020

Deepak Kumar ...Petitioners

Versus

State of Himachal Pradesh ...Respondents
& Another

Coram:

Hon'ble Mr. Justice Ranjan Sharma, Judge

¹*Whether approved for reporting?. Yes.*

For the petitioners:

Mr. Vijender Katoch, Advocate,
for the petitioners in all the
petitions, except CWPOA
No.6204 of 2020.

Mr. Sanjeev Kumar Suri,
Advocate, for the petitioner, in
CWPOA No.6204 of 2020

For the respondents:

Mr. Sumit Sharma, Deputy
Advocate General, for the
respondents-State, in all the
petitions.

Ms. Shubh Mahajan, Advocate,
for the respondents-Himachal
Road Transport Corporation, in
respective petitions.

Mr. Vikas Rajput, Advocate, for
the respondents-Himachal Road
Transport Corporation, in
CWPOA No.6204 of 2020.

Private respondents No.3 to
1237 deleted vide order dated
07.9.2021 in CWPOA No.2488

¹ *Whether reporters of Local Papers may be allowed to see the judgment?*

of 2019 [except Respondents No.392, 398, 417, 546, 547 and 548 stand served but none appeared; except Respondent No.392 represented by Mr. Anil Kumar, Advocate and Respondent No. 548 represented by Mr. Rajesh Kumar, Advocate].

Private respondents No.3 to 6 served, but not represented in CWPOA No.7668 of 2019.

Private respondents not impleaded in CWPOA No.7671 of 2019; CWPOA No.7674 of 2019 and in CWPOA No.6204 of 2020.

Private Respondents No.3 to 1237 deleted vide order dated 03.09.2021 in CWPOA No.7675 of 2019 [except Respondents No.197, 323, 544 & 544 stand served but none appeared; except Respondent No.545 represented by Mr. Anil Kumar, Advocate].

Private Respondents No.3 to 50 in CWPOA No.2550 of 2019 served on 15.11.2021, but not represented.

Ranjan Sharma, Judge

Since the factual matrix and the issue involved and the relief(s) claimed are *pari materia*, therefore, with the consent of Learned Counsel for the parties, all these petitions are taken up together

for adjudication.

2. At the very outset, Learned Counsel(s) for the petitioners states that **CWPOA No. 2550 of 2019**, titled as **Arif Hussain & Others vs State of Himachal Pradesh & Others**, may be treated as the '**Lead Case**' for adjudicating all connected petitions. Prayer being innocuous is not opposed by the Learned Respondent Counsel(s) and therefore, this Court proceeds ahead for adjudicating the claim herein.

FACTUAL MATRIX IN LEAD CASE: CWPOA No 2550 OF 2019 :

3. Petitioners, Arif Hussain and 48 others in Lead Case, **CWPOA No.2550 of 2019**, have come up, before this Court, seeking the following relief(s):-

“(i). That the respondents may very kindly be directed to redraw the result of Transport Multipurpose Assistants category wise by placing the sub-category candidates in their respective categories and replacing them with other candidates falling in order of merit from 3816 candidates who had qualified the written test strictly restricting the whole exercise in all the categories to the applicants in the present original application.”

4. Case as set up by Learned Counsel for the petitioners in Lead Case **CWPOA No. 2550 of 2019**, **Arif Hussain & Others versus The State of**

Himachal Pradesh and Others and other connected petitions is that the Respondent-Corporation issued an Advertisement dated 03.08.2017 [Annexure A-1] and a Corrigendum in September 2017 [Annexure A-3] for filling of 1300 posts of Transport Multipurpose Assistant(s) **(herein referred to as TMPA)** from general category and other reserved categories under vertical and horizontal reserved categories, reads as under:

HIMACHAL ROAD TRANSPORT CORPORTION, SHIMLA-171003

CORRIGENDUM WITH REGARD TO INCREASE IN NUMBER OF POSTS FROM 1000 TO 1300

In continuation to the advertisement dated 03.08.2017 appeared in the News Papers "The Tribune", "Divya Himachal" "Punjab Kesari" & Amar Ujala (HP Edition), following Amendments/Corrigendum are being made:

1. The number of **posts for TMPAs has been increased from 1000 to 1300**. The detail of category-wise number of vacancies are as under:

DETAILS OF CATEGORY-WISE NUMBER OF VACANCIES

Total Posts	Category	Sub Category			
715	General	Gen BPL	Gen. FF	Gen Ex. Man	Gen. Sportsman
	442	104	13	117	39
286	SC	SC BPL	SC FF	SC Ex-man	SC Sportsman
	208	39	06	33	0
65	ST	ST BPL	ST FF	ST Ex-man	SC Sportsman
	39	13	0	13	0
234	OBC	OBC BPL	OBC FF	OBC Ex-man	OBC Sportsman
	163	39	06	26	0

2. The last date of submission of online applications

is 31.08.2017 by 05:00 PM along with all the relevant certificates accompanied by the original demand draft of Rs.100/- in the name of Financial Advisor cum Chief Accounts Officer, HRTC, Shimla-171003 in the nearest Regional Office.

3. The admit cards will be available on the HRTC website www.hrtchp.com from 07.09.2017 onwards and the written test will be held on 17.09.2017.
4. The Skill Development Trainees who have been found to be involved in embezzlement cases shall not be eligible for these posts.

Sd/-
Managing Director,
Himachal Road Transport Corporation,
Shimla-171003.

4(i). Grievance of petitioners in Lead Case is that they belong to General-UR Category and other reserved categories (under vertically and horizontal) since the petitioners were eligible for the post of Transport Multipurpose Assistant ***[referred to as 'TMPA']*** in terms of Advertisement dated 03.08.2017 *[Annexure A-1]* and the Corrigendum dated September 2017 *[Annexure A-3]*, they applied for the posts of TMPA, by submitting online applications. Pursuant to commencement of selection process, the petitioners appeared in written test on 17.09.2017 and after qualifying the written test, the petitioners appeared in the Interview/Evaluation, which was conducted on various dates in the month of October-November 2017. After the completion of selection process in

November 2017, the Respondent-Corporation did not declare the result, due to which some candidates filed OA No.872 of 2018 and OA No 1210 of 2018 before the State Administrative Tribunal and vide order dated 04.05.2018 [*Annexure A-5*], Learned Tribunal directed Respondent-Corporation to declare the result inaccordance with rules. Incompliance to the directions passed by Learned Tribunal, the Respondent Corporation declared the Final Result on 10.05.2018 [*Annexure A-1*], for 1235 posts.

4(ii). It is averred that though the Respondent Corporation declared the Final Result on 10.05.2018 Annexure A-1 [**referred as Original Merit List-Result, as in Annexure P-1**] for various categories but 67 candidates as in Annexure A-6, belonging to horizontal reserved category [Gen-BPL; SC-BPL and OBC-BPL] were granted the benefit of switching over or migration against the General-UR Category posts and against other main reserved categories in violation of the mandate of the Hon'ble Supreme Court and the Instructions issued by the State Government and inclusion of horizontally reserved

category incumbents against the posts meant for General-UR category, had resulted in ousting the petitioners (who belong to General-UR category) from being considered for appointment against the posts meant for them in terms of the advertisement and its corrigendum, was unfair, unjust and violative of Articles 14 and 16 of the Constitution of India. *Another plea* was that majority of candidates who were included in Original Merit List-Result belonged to two districts [Kangra and Mandi] out of twelve districts revealing regional bias, unfairness and malafide in selection. *Further plea* was that marks for experience were not properly evaluated, which has prejudiced large number of candidates, including the petitioners.

In the above backdrop, the petitioners have prayed for directing the Respondent-Corporation to redraw the result of TMPA's, by placing the candidates belonging to horizontal reserved categories [General-BPL, SC-BPL, ST-BPL and OBC-BPL etc.] against their own posts, instead of switching over or migration against General-UR posts and respective

main reserved posts ; *with* further prayer to replace erroneously selected/ appointed candidates with other candidates in their respective categories, including the petitioners.

**STAND OF RESPONDENT-CORPORATION IN REPLY
AFFIDAVIT:**

5. Pursuant to the issuance of notice in OA No. 2888 of 2018 [now renumbered as CWPOA No. 2550 of 2019] on 24.05.2018, the Respondent-Corporation filed the Reply-Affidavit dated 24.04.2019 of Regional Manager (Legal), HRTC, Shimla.

5(i). Reply-Affidavit indicates that the petitioners have participated in the selection process with open eyes and after having remained unsuccessful, the petitioners cannot turn around and challenge the selection/appointment(s). Reply further indicates that selection /appointments for the posts of Transport Multipurpose Assistants have been made strictly inaccordance with the law, in **Indra Sawhney vs Union of India & Others, 1992 Supp (3) SCC 217** and the Instructions, which stipulate that if a reserved candidate (SC/ST) in an open competition, secures higher marks than the marks secured by

the last selected General-UR candidate, then such reserved candidate is to be adjusted against open-General category and such candidate shall not be counted against the reserved quota.

5(ii). Reply-Affidavit further states that though 1300 posts were advertised but since 65 candidates did not appear for evaluation / interview therefore, 1235 candidates were included in Original Merit List. Allegations of political influence in selection were specifically denied. Reply also stated that marks for experience are to be given for service rendered in Government/Semi-Government organization, related to the post applied by a candidate.

It is in this backdrop, the Respondent-Corporation has prayed for dismissal of the writ petition.

REBUTTAL BY PETITIONERS:

6. In rebuttal, the petitioners have denied the stand taken by the Respondent-Corporation in Reply-Affidavit. In the Rejoinder, the petitioners have stated that the Respondent-Corporation has given a complete go-bye to the judgment passed by the

Hon'ble Apex Court in **Rajesh Kumar Dharja vs Rajasthan Public Service Commission** (2007) 8 SCC 785 and the Instructions dated 12.11.2014 **[Annexure A-7]** issued by the State Government, which is applicable in the Respondent Corporation, providing that candidates belonging to horizontally reserved categories i.e. Ex-servicemen /Wards of Ex-servicemen, Wards of Freedom Fighters, Persons with Disabilities, Distinguished Sportspersons and Antodaya/B.P.L shall not be selected/appointed against General-Unreserved post and will be adjusted against the post reserved for the respective reserved category falling under horizontal reservation.

6(i). Rebuttal Affidavit filed by the petitioners places on record the information obtained under RTI on 14.06.2018 *[Annexure A-8]*, to establish that while issuing **Original Merit List as in Annexure A-1**, though as per the Advertisement and the Corrigendum, 104 posts were meant for candidates belonging to the Gen-BPL category [under horizontal reservation] but in fact, 232 Gen-BPL candidates were selected/ appointed, and 128 excess candidates were

selected against General-UR posts. Likewise, though 39 posts were reserved for SC-BPL (under horizontal reservation] but actually 77 SC-BPL candidates were selected /appointed and 38 excess candidates were selected in SC-BPL category. In this backdrop, the petitioners reiterated their claim for directing the Respondent Corporation to redraw the Original Merit List-Final Result of TMPA's.

ADDITIONAL AFFIDAVIT BY PETITIONERS:

7. Petitioners in Lead Case filed an Additional Affidavit dated 25.08.2025, indicating that in compliance of the orders dated 20.08.2024 passed in another similar matter, i.e. **CWPOA No 5147 of 2020, Munish Sharma versus Himachal Road Transport Corporation**, the Respondent-Corporation constituted a Committee for reassigning the horizontal reserved points and the aforesaid Committee had prepared the **Revised Merit List as in Annexure D, in May 2025**, admitting that 91 candidates [i.e. 88 Gen-BPL and 4 Sports Category candidates] were erroneously included against the general and other reserved main categories posts and therefore, these

91 incumbents-TMPA's are to be excluded. However, in Para 10 of rejoinder, the petitioners stated that in addition to aforesaid 91 candidates, still 108 more candidates figuring in the Revised Merit List, as in Annexure D, have been left undisturbed and this Revised Merit List was prepared by acting contrary to Instructions dated 12.11.2014, as referred to above.

ANALYSIS:

8. Taking into account the entirety of facts and circumstances and the material on record, this Court is of the considered view, that the prayer of petitioners for directing the Respondent-Corporation to redraw the Original Merit List as in Annexure A-1, for post of Transport Multipurpose Assistants [TMPA's] stands accorded/granted, with issuance of Revised Merit List, as in Annexure D [prepared and issued in the month of May 2025]; **and** the claim of the petitioners for setting aside the Revised Merit List, as in Annexure D cannot be accepted; **and** the additional plea raised by the petitioners (now during the course of hearing)

that even the reserved category i.e. Scheduled Castes and Scheduled Tribes candidates who secure more marks in open competition than the general category candidates were erroneously and illegally adjusted against the General-UR posts cannot be accepted in fact-situation of instant petition(s); for the *following reasons:-*

RELIEF OF REDRAWING MERIT LIST STANDS GRANTED:

8(i). Respondent-Corporation commenced selection process for filling up 1300 posts of TMPA, in terms of the Advertisement dated 03.08.2017, *Annexure A-1* and the Corrigendum dated September, 2017, *Annexure A-3*. Pursuant to the commencement of selection process, the petitioners and others were put to written test on 17.09.2017 and thereafter the Interview-Evaluation in October-November 2017. After judicial intervention, ***Final Merit List [referred to as Original Merit List]*** was prepared and Final Result was declared on 10.05.2018, for 1235 posts out of 1300 advertised posts. The Original Merit List dated 10.05.2018, *Annexure A-1*, was assailed on the plea that the candidates belonging to

the horizontal reserved category of UR-BPL; SC-BPL, ST-BPL and OBC-BPL were not adjusted against their respective horizontal category posts as shown in terms of the advertisement and the corrigendum and but were adjusted against General/Unreserved and others were adjusted against main reserved posts illegally and this erroneous Original Merit List dated 10.05.2018, *Annexure A-1*, has deprived the petitioners who belong to General-UR category to be appointed as TMPA against 442 General-UR posts *whereas* Respondent Corporation had selected /appointed only 154 Gen-UR candidates and the remaining 275 General-UR posts were filled from candidates belonging to the horizontal reservation General-BPL and other horizontal reserved category candidates. Likewise, it was asserted that in terms of the Advertisement and the Corrigendum though under the horizontal reservation the posts were earmarked i.e. General-BPL (104 posts); OBC-BPL (39 posts); SC-BPL (39 posts) and ST-BPL (13 posts), but the Respondent-Corporation has filled excess candidates by appointing General-BPL (191 posts)

OBC-BPL (70 posts); SC-BPL (110 posts) and ST-BPL (19 posts), by acting in contravention of the settled law in **Indra Sawhney** (*supra*) and the Instructions dated 12.11.2014 [Annexure A-7] and it is in this backdrop, it was asserted that the Original Merit List dated 10.05.2018 was erroneous, which had resulting in exclusion/ouster of the petitioners against the posts meant for their category-General-UR (442 posts); with prayer for directing the Respondent Corporation to redraw the Original Merit List of TMPA's.

8(ii). Before proceeding further, it is necessary to have a recap of Instructions dated 12.11.2014, as entire claim of the petitioners hinges on these Instructions, which reads as under:

“No. PER(AP)-C-F (1)-2/2001
Government of Himachal Pradesh
Department of Personnel (AP-III)

From:

The Chief Secretary Government
of Himachal Pradesh.

To

1. All the Administrative Secretaries to the Government of Himachal Pradesh.
2. All the Divisional Commissioners in H.P.
3. All the Deputy Commissioners in H.P.
4. All the Heads of the Departments in H.P.

5. All the Chairmen/Managing Directors/ Secretaries & Registrars of all the Public Sector Undertakings/Corporations/Boards/ Universities, etc. in H.P.

Dated: Shimla-171002, the **12th November, 2014**

Subject:- Reservation in services and procedure to treat the candidates falling under vertical/horizontal reservation who acquire merit/marks at par with the purely general candidate-clarification thereof.

Sir,

I am directed to refer to this department's instructions of even number dated the 12th December, 2011 regarding relaxation of standards/concessions to the SCs/STs/OBCs against un-reserved posts.

2. The above mentioned instructions provide that only such SC/ST/OBC candidates who are selected on the same standard as applied to general candidates shall not be adjusted against reserved vacancies. **In other words, when a relaxed standard is applied** in selecting SC/ST/OBC candidate, for example in the age limit, experience, qualification, permitted number of chances in written examination. extended zone of consideration larger than what is provided for general category candidates etc., **the SC/ST/OBC candidates are to be counted against reserved vacancies.** Such candidates would be deemed as unavailable for consideration against unreserved vacancies. Therefore, above instructions dated 12.12.2011 are reiterated.

3. The cases are being referred to the Department of Personnel **for clarification whether** the candidates belonging to reserved categories falling under horizontal reservation i.e. Ex-servicemen, Wards of Freedom Fighters, Persons with Disabilities, Distinguished Sportspersons and Antodaya/B.P.L. who acquire merit/marks at par with the purely general candidates are to be considered against their **own post** or **general/ unreserved post?**

4. In this context **it is clarified** that there is no own merit concept for the candidates competing under horizontal reservation. **The candidates belonging to reserved categories falling under horizontal reservation** i.e. Ex-servicemen/ Wards of Ex-servicemen, Wards of Freedom Fighters, Persons with Disabilities, Distinguished Sportspersons and Antodaya/ B.P.L. who acquire merit/marks at par with the purely general candidates **shall not be selected /appointed against general/ unreserved posts and will be adjusted against the post reserved for respective category falling under horizontal reservation.** However, this provision does not debar or preclude a candidate falling under vertical/horizontal reservation from applying and competing for any unreserved post subject to his/her eligibility and clearing the written test/ interview successfully without any relaxation.

5. These instructions may be followed strictly

and also brought to the notice of all concerned for compliance.

Yours faithfully,

Sd/-
Principal Secretary (Personnel)
to the Government of
Himachal Pradesh.”

8(iii). Notably, a similar petition, **CWPOA No 5147 of 2020, titled Munish Sharma vs State of H.P. & Others**, came up before Division Bench of Court along with instant petitions, when, this Court, passed an order on 20.08.2024, for enabling the Respondent Corporation to verify as to whether in the case of reserved candidates belonging to horizontally reserved category, the merit list was prepared in terms of Instructions dated 12.11.2014, in the following terms:-

“CWPOA No.5147 of 2020 along with CWPOA Nos. 2488, 2550, 7668, 7671, 7674, 7675 of 2019 and CWPOA No.6204 of 2020

20.08.2024 Present: Mr. D.K. Khanna, Advocate, for the petitioner in CWPOA No.5147 of 2020.

Mr. Vijender Katoch, Advocate, for the petitioner(s) in CWPOA Nos. 2488, 2550, 7668, 7671, 7674 and 7675 of 2019.

Mr. Sanjeev Kumar Suri, Advocate, for the petitioner in CWPOA No.6204 of 2020.

Mr. P.K. Nadda, Additional Advocate General for the respondents-State in all the petitions.

Ms. Shubh Mahajan, Advocate, for respondent-HRTC in all the petitions, except CWPOA No.6204 of 2020.

Mr. Hemant Thakur, Advocate, for respondent No.3 in CWPOA No.5147 of 2020. Mr. Vikas Rajput, Advocate, for the respondent in CWPOA No.6204 of 2020.

Heard for some time.

2. From the record, it appears that at the time of preparing the select list, candidates belonging to BPL, OBC and other categories related to horizontal reservation have been included in the select list against the post available for general un-reserved category.
3. Faced with the aforesaid situation, learned counsel for the respondent-Corporation **seeks time to verify the fact** and to produce the record to substantiate the claim of the corporation **that merit list, in these matters, has been prepared in consonance with the instructions issued by the State Government from time to time, especially dated 12.11.2014** issued by the Department of Personnel to the Government of Himachal Pradesh, wherein it has been stated that candidates belonging to the reserved categories falling under horizontal reservation i.e.

Ex-servicemen/Wards of Ex-servicemen, Wards of Freedom Fighters, Persons with Disabilities, Distinguished Sportspersons and Antodaya/B.P.L. who acquire merit/marks at par with the purely general candidates shall not be selected/appointed against general / unreserved posts and will be adjusted against the post reserved for respective category falling under horizontal reservation.

As prayed, list on 5th September, 2024.”

8(iii-a). The matter was listed on various dates and was adjourned on request of Learned Counsel for Respondents, who prayed for further time to have instructions in terms of earlier orders dated 20.08.2024. However, on 01.05.2025, this Court was informed by Learned Counsel for Respondent-Corporation that the Five Member Committee has been constituted under Chairmanship of Executive Director for the purpose of reassigning horizontal reservation and the said Committee shall submit its report within two weeks, in terms of the following order:

“CWPOA No. 5147 of 2020 along with connected matters.

01.05.2025 Present: Mr. D.K. Khanna and

Mr. Vijender Katoch and
Mr. Vijay Kumar Verma, Advocates,
for the respective petitioners.

Mr. Pratush Sharma, Addl. A.G., for
the respondent-State.

Ms. Shubh Mahajan, Advocate, for
the HRTC.

Mr. Hemant Thakur, Advocate, for
respondent No.3 in CWPOA No.
5147 of 2020.

“Instructions have been placed
on record. It has been submitted that the
**respondent-corporation has constituted
a committee under the chairmanship
of the Executive Director, HRTC for
the purpose of reassigning horizontal
reservation point** in terms of order
dated 28.8.2024, passed by this
Court and Government instructions
dated 12.11.2014. The committee is
likely to take about two weeks for
submission of the report.

List the matter on 29.5.2025, on which
date, the report of the committee shall
be submitted. The advance copy of
the report shall be supplied to the
other sides.”

8(iii-b). Pursuant to the directions passed by this
Court on 20.08.2024 and subsequent orders dated
01.05.2025 in the case of **Munish Sharma** (*supra*),
the Committee constituted on 28.04.2025, undertook

the task of re-determining and reassigning horizontal reservation points in the light of the Instructions dated 12.11.2014 and during the course of hearing, Learned Counsel for Respondent-Corporation placed on record, the proceedings of the Committee and Revised Merit List drawn by Respondent-Corporation, reads as under:-

“The Committee followed the following procedure for preparing the revised list:-

- a) In the first instant the Merit of total 3655 Candidates have been drawn on the basis of Total Marks obtained out of 100 Marks (Written Test 85 Marks and Document Evaluation 15 Marks) and descending order of date of birth of the candidates.
- b) Thereafter process to draw the merit of total 715 Candidates (Including Horizontal Reservation) against the GENERAL Category posts was drawn on the basis of overall merit. The candidates of GENERAL categories belonging to the Horizontal Reservation falling in this Merit have been adjusted / accommodated against the posts reserved for respective Horizontal Categories. In case where the requisite number of Horizontal Reservation candidates has not been satisfied, the

requisite number of Horizontal Category candidates have been taken beyond the existing merit and adjusted against the respective Horizontal Categories by deleting the corresponding number of candidates from the Merit.

- c) In the next step, the Merit of SC, ST and OBC Categories have been drawn on the same pattern in order to adjust/accommodate the requisite number of Horizontal Reservation points separately in these categories.
- d) The category wise cut off marks in the revised list are as under:-

Sr. No.	Marked Category	Posts Advertised	Highest Marks	Cut Off Marks	No. of Candidates
1	GEN	442	89.68	78.43	442
2	GEN-BPL	104	87.64	78.50	104
3	GEN-WFF	13	76.08	72.50	13
4	GEN-EXARMY	117	77.48	34.71	94
5	SPORTS	39	80.67	71.00	39
6	SC	208	78.42	75.36	208
7	SC-BPL	39	78.38	76.73	39
8	SC-WFF	6	72.25	62.25	2
9	SC-EXARMY	33	77.36	48.22	14
10	ST	39	78.32	74.64	39
11	ST-BPL	13	78.15	73.41	13
12	ST-WFF	0	-	-	-
13	ST-EXARMY	13	73.03	73.03	1
14	OBC	163	78.43	75.31	163
15	OBC-BPL	39	78.39	75.43	39
16	OBC-WFF	6	76.34	68.91	6
17	OBC-EXARMY	26	74.27	43.34	19
	Total	1300			1235

- e) After reworking on the order of existing merit as per the instructions of the Department of Personnel of State

Government dated 12.11.2014 and order of Hon'ble High Court and the principle followed by the Committee as enumerated above, the Members of the Committee were of the opinion that the implications and repercussions of the amendment in merit list should also be brought to the notice of higher authority and Hon'ble High Court as well. **If the existing merit is reworked, 87 (Eighty-Seven) GEN-BPL Candidates** having Total Marks in the range of 76.50 to 78.42 shall no longer fall in Merit as per the advertised strength of posts. **Similarly, 4 (Four) candidates of SPORTS category** having Total Marks in the range of 70.32 to 70.75 shall also be excluded. **In place of these, 91 (Ninety One) new candidates fall in this revised list as per the category wise detail** mentioned below:

Sr. No.	Category against which new candidate included	Number of Candidates newly added	Highest Marks	Cut Off Marks
1	GEN	39	78.92	78.44
2	OBC	20	75.50	75.31
3	OBC-BPL	4	75.50	75.43
4	SC	26	75.52	75.36
5	ST	2	74.76	74.64

The revised list drawn by the Committee is attached as **Annexure "D"**.

Sd/-
(Virender Thakur)

Sd/-
(Madan Sharma)

Sd/-
(Pawan Sharma)

Assistant Controller
(F&A) (Banking)

Dy. Divisional Manager
(Legal)

Divisional Manager
(Admin)

Sd/-
(Pawan Mahajan)
General Manager
(CP/IT)"

Sd/-
(Dr. Murari Lal, H.P.A.S)
Executive Director

Based on the above discussion, this Court is of the considered view that the petitioners have assailed the **Original Merit List dated 10.05.2018, Annexure A-1,** with the further prayer to direct the Corporation to redraw the merit list. During pendency of instant petition(s) and in compliance of the directions passed by the Division Bench of this Court on 20.08.2024 and on 01.05.2025 in a similar connected matter of **Manish Sharma** (*supra*), the Respondent-Corporation constituted a Five Member Committee under the Chairmanship of Executive Director to reassign horizontal points in the light of the Instructions dated 12.11.2014 [*Annexure A-7*]. Accordingly, the **Revised Merit List, as in Annexure D was prepared and issued in May, 2025** redrawing the merit, in respect of horizontal candidates. The Revised Merit list reveals that 91 candidates belonging to horizontally reserved categories [87 General-BPL and 04 Sports Category]

were erroneously included in the Original Merit List, who are now excluded and 91 New-Other Candidates deserve to be included in their place. In these circumstances, since Original Merit List dated 10.05.2018, [Annexure A-1], stands redrawn with the issuance of the Revised Merit List and *the prayer of the petitioners having been granted*, therefore, no further indulgence can be shown in instant proceedings.

CLAIM OF PETITIONERS DESERVES TO BE CONSIDERED IN TERMS OF REVISED MERIT LIST:

9. Consequent upon, the issuance of Revised Merit List (*supra*), the Respondent-Corporation shall take further action by considering the petitioners in Lead Case and other connected petitions for appointment as TMPA's against aforesaid 91 posts [to be vacated due to redrawing of the Original Merit List, in terms of the Revised Merit List]. Upon consideration, in case, all or any of the petitioners fall in merit, against the aforesaid 91 posts, then, Respondent corporation shall take consequential steps for appointing the petitioners

as TMPA's in accordance with law. However, it is clarified that the above directions shall be confined only to the petitioners in the Lead Case and other connected writ petitions and benefit of this judgment shall not be extended to fence sitters or persons who have not approached the Courts hereinbefore. Needless to say, that above 91 incumbents, who figured in the Original Merit List but have now been excluded in the Revised Merit List had been in service for last about 6 years (since June 2018) and in these circumstances, this Court leaves it open for the Respondent Corporation to consider them for retention either against unfilled 65 posts or other vacant posts or by creating supernumerary post(s) in view of their prolonged service, if deemed fit and proper, in accordance with law.

CLAIM OF TWO PETITIONERS WHO FALL IN MERIT TO BE GIVEN EFFECT TO IN TERMS OF REVISED MERIT LIST:

10. At this stage, Learned Counsel for the petitioners submit that pursuant to issuance of the Revised Merit List drawn by the Committee constituted on 28.04.2025, in terms of Instructions

dated 12.11.2014, two of the petitioners, namely Deepak Kumar [Petitioner in CWP No. 6204 of 2020] and Dinesh Kumar [Petitioner No. 42 in CWPOA No 2550 of 2019] fall in the revised merit list. Even, Learned Counsel for the Respondent Corporation does not dispute this position.

Accordingly, this Court directs Respondent-Corporation to consider the cases of aforesaid two candidates, for appointment three weeks from the date of receipt of certified /downloaded copy of this judgment. Upon issuance of appointment orders, the rights of the aforementioned two incumbents vis-à-vis rights of similarly placed recommendees, who were subsequently selected-appointed in June 2018, deserves to be equitably balanced, by directing he Respondent-Corporation to grant them seniority, pay fixation with notional benefits from the due dates others were appointed (in June 2018), but actual monetary benefits shall accrue from the date of filing of respective petition(s).

**PLEA CHALLENGING REVISED MERIT LIST
NOT TENABLE IN INSTANT PROCEEDINGS:**

11. During the pendency of instant petition(s),

Original Merit List dated 10.05.2018, *Annexure A-1*, stands recasted and redrawn by the Respondent Corporation, by issuing the Revised Merit List as in Annexure D [of May 2025]. Now, by way of an affidavit dated 25.08.2025, filed during the pendency of instant matters and even during the course of hearing today, Learned Counsel for the petitioners submits that Revised Merit List (*supra*) is not in conformity with the Instructions dated 12.11.2014.

The above plea of the Learned Counsel for the petitioners cannot be acceded to in instant proceedings, for the reason, firstly, the Revised Merit List, Annexure D [prepared and issued in May 2025] was not the subject-relief in instant petition(s); and secondly, after the issuance of the Revised Merit List in May 2025, the petitioners chose not to amend the writ petition and the existing prayer-relief(s) clause; and thirdly, the petitioners cannot seek adjudicating of the Revised Merit List, without putting the affected persons to notice so as give them an opportunity of hearing before adjudicating

upon the validity of the Revised Merit List ; and fourthly, the challenge to the Revised Merit List by the petitioners merely by filing an affidavit dated 25.08.2025, that the Revised Merit List is not in consonance with the Instructions dated 12.11.2014 will not confer any right on the petitioners to seek adjudication of new material contained in Revised Merit List prepared and issued in May 2025 behind their back *and* accepting such plea shall impede the core foundational ethos of the principle of *audi alteram partem*. ; and the affidavit dated 24.09.2025 {at Pg 352 of paper-book) raising totally new pleas and grounds in respect of Revised Merit List as in Annexure D, [prepared and issued in May 2025} cannot be adjudicated in instant proceedings so as to put forth new pleas as a substitute for amendment and that too behind the back of the persons to be affected, in view of the mandate of the Honble Supreme Court in **Noorul Hassan vs Nahakpam Indrajit Singh and Others, (2024) 9 SCC 353**. In sthese circumstances, this Court does not accede to the prayer of the petitioners for adjudicating the

Revised Merit List, in instant proceedings.

However, this Court leave it open for the petitioners to resort to an appropriate remedy, against the Revised Merit List, inaccordance with law, if so desire.

**ADDITIONAL PLEA THAT RESERVED CANDIDATES
ILLEGALLY ALLOWED SWITCHING OVER AND
MIGRATION TO GENERAL POSTS NOT TENABLE:**

12. Learned Counsel for the petitioners contends that the reserved candidates belonging to Schedule Caste and Schedule Tribe who secured more marks than last General Category candidate were granted benefit of switching over and migration against the posts meant for General Category has resulted in depriving the petitioners, who belong to the General Category to be selected/appointed against their posts illegally.

The above contention of Learned Counsel for the petitioner cannot sustain, *for the reason, firstly,* the judgement passed by the Constitutional Bench of the Honble Supreme Court has mandated in the case of ***Indra Sawhney vs Union of India***, 1992 Supp (3) SCC 217, reiterated in the case

of ***R K Sabharwal vs State of Punjab***, (1995) 2 SCC 745 {Para 4} and recently in ***Rajasthan High Court and another vs Rajat Yadav and Others*** 2025 SCC Online SC 2931= 2025 INSC 1503 that a reserved candidate belonging to Schedule Caste and Schedule Tribe, who secured more marks than the last General Category candidate has a right to be adjusted/treated to have been qualified against open-unreserved post ; and secondly, in the teeth of the mandate of law in the cases of ***Indra Sawhney, R K Sabharwal and Rajat Yadav*** (supra) the claim of the petitioners that reserved candidates were illegally migrated against the Open-Unreserved posts does not suffer from any infirmity; and thirdly, the contention of Learned Counsel for the petitioners that reserved category candidates who have availed of relaxed standards {i.e. relaxation in Age Limit, Experience, Qualification, Permitted Number of Chances in Written Examination, Extended Zone of Consideration larger than what is provided for General Category Candidates, etc. and so on and so forth} cannot be adjusted against Open-

Unreserved posts but such reserved candidates are to be adjusted against their respective reserved posts cannot sustain, in absence of foundational pleadings in the writ petition(s) as to whether the reserved candidates had availed of relaxed standards or not; and in these circumstances, this Court is unable to accede to the prayer of the petitioners in these proceedings.

Faced with this eventuality, Learned Counsel for the petitioners prays for and is granted liberty to assert and establish any such right, against the Revised Merit List, {prepared-issued in May 2025, during the pendency of the instant petitions} hereinafter, inaccordance with law, if so desired.

ALLEGATION OF MALAFIDES UNTENABLE:

13. Learned Counsel for the petitioners contends that a perusal of the Original Merit List-Result reveals that majority of selected candidates belonged to two districts [Kangra and Mandi] out of twelve districts reveals regional bias, unfairness and malafide in selection.

The above plea cannot sustain, *for the*

reason, firstly, that no specific allegations of malafides have been alleged against any person or persons; and secondly, and no such person has been arrayed as a party in any of the petitions; and thirdly a mere isolated and bald averment cannot form basis for malafides, when, the same have to be established by cogent, convincing and sufficient material, without expecting the Court to resort to a “fishing inquiry” in terms of the mandate of the Honble Supreme Court in the case of **Purshottam Kumar Jha vs State of Jharkhand and Others**, (2006) 9 SCC 458 {Para 23} in view of the fact that malafide are not be inferred or assumed but substantially established, so as to vitiate the decision making or the state action; and lastly, absence of above compliances, is sufficient to turn down this submission of the Learned Counsel for the petitioners.

MARKS FOR EXPERIENCE ASSIGNED AS PER NORMS:

14. Contention of Learned Counsel for the petitioners that the marks for experience were not assigned properly is devoid of any merit, in view of the fact that marks for experience were awarded,

during Interview-Evaluation, in terms of Clause (xi) of the Notification dated 17.04.2017, Annexure R-2/A provided for marks for experience in Government/ Semi Government Organization, in the related post only. Nothing concrete and convincing has been placed on record to assert and establish that the selected candidates were awarded marks in derogation of these criteria.

15. No other point was raised/argued.

DIRECTIONS:

16. In view of above discussion and for the reasons recorded above, the Lead Case and all other connected cases are disposed of, in the following terms:-

- (i).** Prayer for redrawing Original Merit List stands granted/accepted with issuance of Revised Merit List, as in Annexure D, (prepared-issued in May 2025);
- (ii).** Based on Revised Merit List, Respondent Corporation shall consider the petitioners in Lead Case and other connected cases, for appointment, in case, they fall in merit, against 91 posts to be vacated in terms of revised merit;
- (iii).** Upon consideration and in case of acceptance of claim, as in direction no (ii)

above; Respondent Corporation shall grant all consequential benefits, to the petitioners as in direction no (v) infra ;

- (iv).** Based on Revised Merit List, Respondent Corporation shall consider the petitioners, Deepak Kumar [Petitioner in CWP No 6204 of 2020] and Dinesh Kumar [Petitioner No 42 in CWPOA No 2550 of 2019] for appointment, inaccordance with law;
- (v).** Pursuant to appointment, aforesaid Deepak Kumar and Dinesh Kumar shall be granted all consequential benefits like seniority and notional pay fixation from the date other incumbents from same selection were appointed as TMPA's in June 2018 but actual monetary benefits shall accrue from the date of filing of respective writ petition(s);
- (vi).** Liberty is granted to petitioners to avail appropriate remedy against Revised Merit List, as in Annexure D, [prepared-issued in May 2025), if so desired ;
- (vii).** Respondent Corporation shall complete the entire action, as in directions (i) to (iv) above, within four weeks from the date of receipt of certified/downloaded copy of this judgement;
- (viii).** Directions passed in Lead Case shall mutatis mutandis apply to other connected cases ;
- (ix).** Needless to say, that it shall be open

for Respondent Corporation to consider 91 incumbents-TMPA, who are excluded in Revised Merit List, but have been working for about 6 years (since June 2018) to be retained against unfilled 65 posts and/or other vacant posts or by creating supernumerary posts, if so desired; but without impeding the right of petitioners herein;

(x). Parties to bear respective costs.

In the aforesaid terms, the writ petition(s) and all miscellaneous application(s), if any, shall accordingly stand disposed of.

(Ranjan Sharma)
Judge

December 23, 2025

[Shivender]