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2660.17 WP R.odt

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD**

**WRIT PETITION NO. 2660 OF 2017**

**ANANDA S/O. NARAYAN GADEKAR  
AND OTHERS.  
VERSUS  
THE UNION OF INDIA AND ANOTHER.**

...

Mr. Amit Mukhedkar, Advocate for petitioners.  
Mrs. Sudha Kulthe, Advocate for respondent Nos. 1 and 2.

**CORAM : SMT. VIBHA KANKANWADI  
& S.G. CHAPALGAONKAR, JJ.**

**RESERVED ON : 8<sup>th</sup> OCTOBER, 2024.  
PRONOUNCED ON : 24<sup>th</sup> OCTOBER, 2024.**

**ORDER :-**

1. The petitioners have approached this Court under Article 226 of the Constitution of India with the following prayers :-

(B) By issuing a writ of Mandamus or any other appropriate writ or order in a like nature, the Respondents may please be directed to consider the claim of Petitioners for appointment on the post of Constable (GD) in CAPFs, NIA, SSF and Rifleman (GD) in Assam Rifles Examination for the 2015 recruitment process initiated pursuant to Advertisement dated 24.1.2015, within some stipulated period;

(C) By issuing a writ of Mandamus or any other appropriate writ or order in a like nature, the Respondents may please be directed

to appoint the respective Petitioners on the post of `Constable (GD) in CAPFs, NIA, SSF and Rifleman (GD) in Assam Rifles Examination for the 2015 recruitment process initiated pursuant to Advertisement dated 24.1.2015, within some stipulated period;

2. Mr. Amit Mukhedkar, learned advocate for the petitioners submit that in pursuance to the advertisement dated 24.1.2015, published by the respondents for filling up 62319 posts of Constable (GD) in BSF, CRPF, CISF, ITBP, SSB, NIA, SSF and Rifleman in Assam Rifles, as per the recruitment scheme formulated by the Ministry of Home Affairs and Staff Selection Commission, petitioners submitted their candidature. Petitioners have undergone the process of recruitment consisting of Physical Standard Test, Physical Efficiency Test Written Examination and Medical Examination. The names of the petitioners were reflected in the selection list. However, respondents published second list of selected candidates, wherein, names of the petitioners were not appearing.

3. Mr. Mukhedkar, would further submit that total 62390 posts were available, however, as per the second selection list, names of 57014 candidates have been declared. As such, almost 5000 posts are still vacant. The respondents have failed to offer any explanation for deleting the names of petitioners who were shown in the first select list. He would further urge that since the petitioners had been successful in written examination as well as physical test and they have devoted two years in process of selection from 2015 to 2017, they can be considered for appointment against vacancies left after exhausting the second select list.

4. Mrs. S.S. Kulthe, learned advocate for respondent No.1 submits that the names of petitioners were shown in the provisional selection list for the purpose of medical examination and verification of documents. After that the final selection list was declared. Petitioners are less meritorious than the last selected candidate in the respective categories. Secondly, they cannot raise any grievance regarding non-selection or appointment.

5. We have considered the submissions advanced on behalf of the learned advocate appearing for the respective parties. We have gone through the pleadings in the petition and affidavit in reply. We have perused the record tendered into service on behalf of the respective parties. Admittedly, petitioners participated in the selection process in pursuance to the advertisement dated 24.1.2015 published by the respondents for recruitment of 62390 posts of constables in various forces, as per the Scheme formulated by the Ministry of Home Affairs and Staff Selection Commission. The petitioners were found successful in the physical standard test and physical efficiency test, so also written examination. Their names figured in the selection list dated 3.2.2017. Thereafter, they were called for verification of documents. However, in the second list published by the respondents, their names are not appearing amongst the 57014 candidates, who have been selected.

6. The respondents have filed the affidavit in reply, contending that the petitioners have undergone physical standard test, physical efficiency test, wherein, they were found fit. Subsequently, they participated in the written examination held on 4.10.2015. Since the

petitioners were declared provisionally qualified in written examination, they were called for Detailed Medical Examination (DME) and Document Verification as the last stage of the recruitment process. After completion of all the required stages of the recruitment process, the Commission had published final merit list on 2.2.2017. The petitioners' names are not reflected in the said list for the reason that the petitioners had secured less marks than the last selected candidates of their respective categories, States and areas of vacancy. The plea of the petitioners is based on misconception of fact. It is clarified that the final selection list has been published on 2.2.2017. The list relied upon by the petitioners was prepared merely for the purpose of calling the candidates for medical examination and document verification i.e. at the last stage of recruitment process.

7. The affidavit in reply contents details regarding individual scores obtained by each of the petitioners and the merit position in the respective categories. It would be apposite to refer the same for easy understanding of the stand taken by the respondents.

| Sr.No<br>. | Roll No. Name<br>and Category<br>of the<br>Candidate                 | Particulars of marks obtained by the petitioner as per<br>the Cut Off percentage of marks fixed by the<br>Commission.                                                                                                                                                   |          |         |
|------------|----------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------|---------|
| 1          | 7202011071<br><br>GADEKAR<br>ANANDA<br>NARAYAN<br><br><br>SC<br>MAH. | The Candidate obtained 47 marks in the Written examination. He is domicile of Maharashtra State and belongs to SC category. He filled options for all Forces in the order ABCDEFGH. The cut off marks for Maharashtra State fo SC and General Candidates is as follows. |          |         |
|            |                                                                      | SC                                                                                                                                                                                                                                                                      |          |         |
|            |                                                                      | BSF-55                                                                                                                                                                                                                                                                  | SSB- 52  | NIA- 56 |
|            |                                                                      | CISF-53                                                                                                                                                                                                                                                                 | ITBP- 52 | SSF- 81 |
|            |                                                                      | CRPF-53                                                                                                                                                                                                                                                                 | AR- 56   |         |

|   |                                                       |                                                                                                                                                                                                                                                                            |                   |         |
|---|-------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------|---------|
|   |                                                       | GEN                                                                                                                                                                                                                                                                        |                   |         |
|   |                                                       | BSF-60                                                                                                                                                                                                                                                                     | SSB-Not reserved  | NIA- 89 |
|   |                                                       | CISF-58                                                                                                                                                                                                                                                                    | ITBP- 56          | SSF- 86 |
|   |                                                       | CRPF-57                                                                                                                                                                                                                                                                    | AR- 60            |         |
|   |                                                       | Since the candidate obtained less marks than the marks of the last selected candidate of his category and the State, he was not selected.                                                                                                                                  |                   |         |
| 2 | 7207026210<br>MOHAMMAD<br>SALAM<br>MOHAMMAD<br>SHARIF | The Candidate obtained 53 marks in the Written examination. He is domicile of Maharashtra State and belongs to OBC category. He filled options for all Forces in the order CABDGEFH. The cut off marks for Maharashtra State for OBC and General Candidates is as follows. |                   |         |
|   |                                                       | OBC                                                                                                                                                                                                                                                                        |                   |         |
|   | OBC<br>MAH.                                           | BSF-57                                                                                                                                                                                                                                                                     | SSB-54            | NIA- 88 |
|   |                                                       | CISF-56                                                                                                                                                                                                                                                                    | ITBP-54           | SSF- 85 |
|   |                                                       | CRPF-55                                                                                                                                                                                                                                                                    | AR- 56            |         |
|   |                                                       | GEN                                                                                                                                                                                                                                                                        |                   |         |
|   |                                                       | BSF-60                                                                                                                                                                                                                                                                     | SSB-Not reserved  | NIA- 89 |
|   |                                                       | CISF-58                                                                                                                                                                                                                                                                    | ITBP- 56          | SSF- 86 |
|   |                                                       | CRPF-57                                                                                                                                                                                                                                                                    | AR- 60            |         |
|   |                                                       | Since the candidate obtained less marks than the marks of the last selected candidate of his category and the State, he was not selected                                                                                                                                   |                   |         |
|   | 3<br>7202023623<br>DALVE<br>VITTHAL<br>NARAYAN        | The Candidate obtained 55 marks in the Written examination. He is domicile of Maharashtra State and belongs to General category. He filled options for all Forces in the order ABCDEFGH. The cut off marks for Maharashtra State for General Candidates is as follows.     |                   |         |
|   |                                                       | GEN                                                                                                                                                                                                                                                                        |                   |         |
|   |                                                       | BSF-60                                                                                                                                                                                                                                                                     | SSB- Not reserved | NIA- 89 |
|   |                                                       | CISF-58                                                                                                                                                                                                                                                                    | ITBP-56           | SSF- 86 |
|   |                                                       | CRPF-57                                                                                                                                                                                                                                                                    | AR- 60            |         |
|   |                                                       | Since the candidate obtained less marks than the marks                                                                                                                                                                                                                     |                   |         |

|             |                                                      |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |             |  |  |        |         |                   |         |          |                   |         |        |  |             |  |  |        |               |             |         |         |         |         |        |  |
|-------------|------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------|--|--|--------|---------|-------------------|---------|----------|-------------------|---------|--------|--|-------------|--|--|--------|---------------|-------------|---------|---------|---------|---------|--------|--|
|             |                                                      | of the last selected candidate of his category and the State, he was not selected                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |             |  |  |        |         |                   |         |          |                   |         |        |  |             |  |  |        |               |             |         |         |         |         |        |  |
| 4           | 7202046401<br><br>VITTHAL<br>INGOLE<br>SUDAMA<br>RAO | <p>The Candidate obtained 48 marks in the Written examination. He is domicile of Maharashtra State and belongs to SC category. He filled options for all Forces in the order CBADGEFGH. The cut off marks for Maharashtra State for SC and General Candidates is as follows.</p> <table> <tr> <td colspan="3">SC</td></tr> <tr> <td>BSF-55</td><td>SSB- 52</td><td>NIA- 86</td></tr> <tr> <td>CISF-53</td><td>ITBP- 52</td><td>SSF- 81</td></tr> <tr> <td>CRPF-53</td><td>AR-56</td><td></td></tr> <tr> <td colspan="3">GEN</td></tr> <tr> <td>BSF-60</td><td>SSB- reserved</td><td>Not NIA- 89</td></tr> <tr> <td>CISF-58</td><td>ITBP-56</td><td>SSF- 86</td></tr> <tr> <td>CRPF-57</td><td>AR- 60</td><td></td></tr> </table> <p>Since the candidate obtained less marks than the marks of the last selected candidate of his category and the State, he was not selected</p>                          | SC          |  |  | BSF-55 | SSB- 52 | NIA- 86           | CISF-53 | ITBP- 52 | SSF- 81           | CRPF-53 | AR-56  |  | GEN         |  |  | BSF-60 | SSB- reserved | Not NIA- 89 | CISF-58 | ITBP-56 | SSF- 86 | CRPF-57 | AR- 60 |  |
| SC          |                                                      |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |             |  |  |        |         |                   |         |          |                   |         |        |  |             |  |  |        |               |             |         |         |         |         |        |  |
| BSF-55      | SSB- 52                                              | NIA- 86                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |             |  |  |        |         |                   |         |          |                   |         |        |  |             |  |  |        |               |             |         |         |         |         |        |  |
| CISF-53     | ITBP- 52                                             | SSF- 81                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |             |  |  |        |         |                   |         |          |                   |         |        |  |             |  |  |        |               |             |         |         |         |         |        |  |
| CRPF-53     | AR-56                                                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |             |  |  |        |         |                   |         |          |                   |         |        |  |             |  |  |        |               |             |         |         |         |         |        |  |
| GEN         |                                                      |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |             |  |  |        |         |                   |         |          |                   |         |        |  |             |  |  |        |               |             |         |         |         |         |        |  |
| BSF-60      | SSB- reserved                                        | Not NIA- 89                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |             |  |  |        |         |                   |         |          |                   |         |        |  |             |  |  |        |               |             |         |         |         |         |        |  |
| CISF-58     | ITBP-56                                              | SSF- 86                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |             |  |  |        |         |                   |         |          |                   |         |        |  |             |  |  |        |               |             |         |         |         |         |        |  |
| CRPF-57     | AR- 60                                               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |             |  |  |        |         |                   |         |          |                   |         |        |  |             |  |  |        |               |             |         |         |         |         |        |  |
| 5           | 7202030685<br><br>AAKANSHA<br>RAMAKANT<br>CHAUDANTE  | <p>The Candidate obtained 44 marks in the Written examination. She is domicile of Maharashtra State and belongs to SC category. She filled options for all Forces in the order CBFGHEDA. The cut off marks for Maharashtra State for SC and General Candidates is as follows.</p> <table> <tr> <td colspan="3">SC (FEMALE)</td></tr> <tr> <td>BSF-50</td><td>SSB-46</td><td>NIA- Not reserved</td></tr> <tr> <td>CISF-47</td><td>ITBP-46</td><td>SSF-Not reserved.</td></tr> <tr> <td>CRPF-49</td><td>AR- 46</td><td></td></tr> <tr> <td colspan="3">GEN(FEMALE)</td></tr> <tr> <td>BSF-51</td><td>SSB-48</td><td>NIA-88</td></tr> <tr> <td>CISF-49</td><td>ITBP-48</td><td>SSF- 81</td></tr> <tr> <td>CRPF-52</td><td>AR-47</td><td></td></tr> </table> <p>Since the candidate obtained less marks than the marks of the last selected candidate of her category and the State, she was not selected</p> | SC (FEMALE) |  |  | BSF-50 | SSB-46  | NIA- Not reserved | CISF-47 | ITBP-46  | SSF-Not reserved. | CRPF-49 | AR- 46 |  | GEN(FEMALE) |  |  | BSF-51 | SSB-48        | NIA-88      | CISF-49 | ITBP-48 | SSF- 81 | CRPF-52 | AR-47  |  |
| SC (FEMALE) |                                                      |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |             |  |  |        |         |                   |         |          |                   |         |        |  |             |  |  |        |               |             |         |         |         |         |        |  |
| BSF-50      | SSB-46                                               | NIA- Not reserved                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |             |  |  |        |         |                   |         |          |                   |         |        |  |             |  |  |        |               |             |         |         |         |         |        |  |
| CISF-47     | ITBP-46                                              | SSF-Not reserved.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |             |  |  |        |         |                   |         |          |                   |         |        |  |             |  |  |        |               |             |         |         |         |         |        |  |
| CRPF-49     | AR- 46                                               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |             |  |  |        |         |                   |         |          |                   |         |        |  |             |  |  |        |               |             |         |         |         |         |        |  |
| GEN(FEMALE) |                                                      |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |             |  |  |        |         |                   |         |          |                   |         |        |  |             |  |  |        |               |             |         |         |         |         |        |  |
| BSF-51      | SSB-48                                               | NIA-88                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |             |  |  |        |         |                   |         |          |                   |         |        |  |             |  |  |        |               |             |         |         |         |         |        |  |
| CISF-49     | ITBP-48                                              | SSF- 81                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |             |  |  |        |         |                   |         |          |                   |         |        |  |             |  |  |        |               |             |         |         |         |         |        |  |
| CRPF-52     | AR-47                                                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |             |  |  |        |         |                   |         |          |                   |         |        |  |             |  |  |        |               |             |         |         |         |         |        |  |

|   |                                                                 |                                                                                                                                                                                                                                                                           |                   |         |
|---|-----------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------|---------|
| 6 | 7202008913<br><br>WANNE<br>SHANKAR<br>BABA<br><br>SC<br>MAH.    | The Candidate obtained 47 marks in the Written examination. He is domicile of Maharashtra State and belongs to SC category. He filled options for all Forces in the order CABDEFGH. The cut off marks for Maharashtra State for SC and General Candidates is as follows   |                   |         |
|   |                                                                 | SC                                                                                                                                                                                                                                                                        |                   |         |
|   |                                                                 | BSF-55                                                                                                                                                                                                                                                                    | SSB- 52           | NIA- 56 |
|   |                                                                 | CISF-53                                                                                                                                                                                                                                                                   | ITBP- 52          | SSF- 81 |
|   |                                                                 | CRPF-53                                                                                                                                                                                                                                                                   | AR-56             |         |
|   |                                                                 | GEN                                                                                                                                                                                                                                                                       |                   |         |
|   |                                                                 | BSF-60                                                                                                                                                                                                                                                                    | SSB- Not reserved | NIA- 89 |
|   |                                                                 | CISF-58                                                                                                                                                                                                                                                                   | ITBP-56           | SSF- 86 |
|   |                                                                 | CRPF-57                                                                                                                                                                                                                                                                   | AR- 60            |         |
|   |                                                                 | Since the candidate obtained less marks than the marks of the last selected candidate of her category and the State, she was not selected                                                                                                                                 |                   |         |
|   |                                                                 |                                                                                                                                                                                                                                                                           |                   |         |
| 7 | 7202000195<br><br>RAUT<br>VISHAL<br>ASHOKRAO<br><br>SC.<br>MAH. | The Candidate obtained 47 marks in the Written examination. He is domicile of Maharashtra State and belongs to SC category. He filled options for all Forces in the order CADBDGEFH. The cut off marks for Maharashtra State for SC and General Candidates is as follows. |                   |         |
|   |                                                                 | SC (FEMALE)                                                                                                                                                                                                                                                               |                   |         |
|   |                                                                 | BSF-55                                                                                                                                                                                                                                                                    | SSB- 52           | NIA- 86 |
|   |                                                                 | CISF-53                                                                                                                                                                                                                                                                   | ITBP- 52          | SSF- 81 |
|   |                                                                 | CRPF-53                                                                                                                                                                                                                                                                   | AR-56             |         |
|   |                                                                 | GEN                                                                                                                                                                                                                                                                       |                   |         |
|   |                                                                 | BSF-60                                                                                                                                                                                                                                                                    | SSB- Not reserved | NIA- 89 |
|   |                                                                 | CISF-58                                                                                                                                                                                                                                                                   | ITBP-56           | SSF- 86 |
|   |                                                                 | CRPF-57                                                                                                                                                                                                                                                                   | AR- 60            |         |
|   |                                                                 | Since the candidate obtained less marks than the marks of the last selected candidate of his category and the State, he was not selected                                                                                                                                  |                   |         |
|   |                                                                 |                                                                                                                                                                                                                                                                           |                   |         |

|   |                                                                 |                                                                                                                                                                                                                                                                            |          |                    |
|---|-----------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------|--------------------|
| 8 | 7202005799<br><br>SHITAL<br>PADMAKAR<br>MORE<br><br>SC.<br>MAH. | The Candidate obtained 45 marks in the Written examination. She is domicile of Maharashtra State and belongs to SC category. She filled options for all Forces in the order CFBGHEDA. The cut off marks for Maharashtra State for SC and General Candidates is as follows. |          |                    |
|   |                                                                 | SC (FEMALE)                                                                                                                                                                                                                                                                |          |                    |
|   |                                                                 | BSF-50                                                                                                                                                                                                                                                                     | SSB- 46  | NIA- Not reserved  |
|   |                                                                 | CISF-47                                                                                                                                                                                                                                                                    | ITBP- 46 | SSF- Not reserved. |
|   |                                                                 | CRPF-49                                                                                                                                                                                                                                                                    | AR-46    |                    |
|   |                                                                 | GEN (FEMALE)                                                                                                                                                                                                                                                               |          |                    |
|   |                                                                 | BSF-51                                                                                                                                                                                                                                                                     | SSB- 48  | NIA- 88            |
|   |                                                                 | CISF-49                                                                                                                                                                                                                                                                    | ITBP-48  | SSF- 81            |
|   |                                                                 | CRPF-52                                                                                                                                                                                                                                                                    | AR- 47   |                    |
|   |                                                                 | Since the candidate obtained less marks than the marks of the last selected candidate of her category and the State, she was not selected                                                                                                                                  |          |                    |

8. This Court, vide order dated 9.3.2022 had called upon the respondents to place the original records in respect of selection of the candidates alongwith copy of the advertisement issued to demonstrate on what basis other candidates were selected including the marks secured by them. The petitioners were given liberty to take inspection of the original record in this regard after giving 48 hours notice to the learned advocate for the respondents.

9. It appears that respondents have placed the original record on 31<sup>st</sup> March, 2023. The learned advocate for the petitioners submits that he has verified the original record. He do not dispute that none of the less meritorious candidate than the petitioner has figured in the final selection list. All the candidates in the final select list are more meritorious than the petitioners. We have also perused the record and found that even the last selected candidates in the respective category is

more meritorious than the petitioners.

10. At this stage, Mr. Mukhedkar would submit that even after exhausting the final merit list, there are about 5000 vacancies. Therefore, the petitioners can be considered for appointment.

11. It is trite that candidates in select list cannot claim appointment as a matter of right. Mere inclusion in the selection list does not confer any right to be selected even if some of the vacancies remain unfilled. At this stage, it would be apposite to refer to the observations of the Apex Court in the matter of ***State of U.P. and others Vs. Rajkumar Sharma and others, (2006) 3 Supreme Court Cases 330***, wherein, the Supreme Court in para. 14, observed as under :-

*“14. Selectees cannot claim the appointment as a matter of right. Mere inclusion of candidate’s name in the list does not confer any right to be selected, even if some of the vacancies remains unfilled and the candidates concerned cannot claim that they have been given a hostile discrimination.”*

12. In the matter of *Shankarsan Dash vs. Union of India (1991) 3 SCC 47*, the Apex Court observed in para. 7 as under :-

*“7. It is not correct to say that if a number of vacancies are notified for appointment and adequate number of candidates are found fit, the successful candidates acquire an indefeasible right to be appointed which cannot be legitimately denied. Ordinarily the notification merely amounts to an invitation to qualified candidates to apply for recruitment and on their selection they do not acquire any right to the post. Unless the relevant recruitment rules so indicate, the State is under no legal duty to fill up all or*

*any of the vacancies. However, it does not mean that the State has the licence of acting in an arbitrary manner. The decision not to fill up the vacancies has to be taken bona fide for appropriate reasons. And if the vacancies or any of them are filled up, the State is bound to respect the comparative merit of the candidates, as reflected at the recruitment test, and no discrimination can be permitted. This correct position has been consistently followed by this Court, and we do not find any discordant note in the decisions in [State of Haryana v. Subhash Chander Marwaha and Others](#), [1974] 1 SCR 165; [Miss Neelima Shangla v. State of Haryana and Others](#), [1986] 4 SCC 268 and [Jitendra Kumar and Others v. State of Punjab and Others](#), [1985] 1 SCR 899.*

13. We find that the recruitment process has been completed in the year 2017. Even assuming that certain vacancies were left behind, the petitioners cannot claim a right to appointment. A selected candidate cannot seek a writ of Mandamus to issue appointment order unless it is shown that he has been wrongly denied appointment or he was discriminated during the process of selection. Merely because name of the petitioners were included in the provisional selection list, no right is created in their favour. It is for the respondents to decide if they wish to fill up the vacancies.

14. Further, this Court can not be oblivious of the fact that apart from petitioners, there may be many other meritorious candidates, who are not before us. In that view of the matter, we are not inclined to entertain the last prayer of the petitioners.

15. In the result, writ petition stands dismissed.

[S.G. CHAPALGAONKAR, J]

[ SMT. VIBHA KANKANWADI, J]

grt/-