



2024:DHC:355-DB



IN THE HIGH COURT OF DELHI AT NEW DELHI

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Judgment delivered on: 18.01.2024

+ **LPA 501/2017**

SHAIENDRA PATHAK

..... Appellant

versus

UNION OF INDIA AND ORS.

..... Respondents

Advocates who appeared in this case:

For the Appellant : Mr. Rajan Mani, Advocate.

For the Respondents : Mr Dev P. Bhardwaj, CGSC for UOI/R-1 along with Ms Anubha Bhardwaj, Mr Sachin Singh and Ms Chaahat Khanna, Advocates.

Mr M.A. Niyazi, Ms Anamika Ghai Niyazi, Ms Kirti Bhardwaj, Ms Nehmat Sethi and Mr Arquam Ali, Advocates for R-3 & 5.

Mr Mohinder J.S. Rupal, Mr Hardik Rupal and Mr Madhav Mehrotra, Advocates for University of Delhi.

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HON'BLE MR JUSTICE VIBHU BAKHRU

HON'BLE MR JUSTICE AMIT MAHAJAN

JUDGMENT

VIBHU BAKHRU, J

INTRODUCTION

1. The appellant has filed the present intra court appeal impugning an order dated 16.01.2017 (hereafter '**the impugned order**'), whereby



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the appellant's writ petition under Article 226 of the Constitution of India – W.P.(C) No. 7169/2011 captioned *Shailendra Pathak v. Union of India & Ors.* – was rejected.

2. The appellant had applied for the post of an Assistant Registrar reserved for Orthopedically Handicapped (OH) category persons pursuant to an advertisement dated 30.09.2009 issued by respondent no.2 (hereafter '**Delhi University**'). However, the appellant was not appointed to the said post as another candidate (respondent no.5), who had also applied pursuant to the advertisement dated 30.09.2009, in the same category, was placed higher in the order of merit.

3. The appellant claims that respondent no.5 was required to be adjusted against a vacancy to be filled by a candidate belonging to Other Backward Classes (OBC), which was advertised on 13.04.2010. Respondent no.4 was appointed against the said vacancy reserved for OBC category. The appellant claims that respondent no.4 had secured higher marks than respondent no.3 who had been appointed against the vacancy in the General (Unreserved) category and therefore, was required to be appointed in the vacancy for the General category, thus, giving rise to a vacancy in the OBC category to be filled by respondent no.5.

4. The principal question to be addressed is whether respondent nos.4 and 5 are required to be adjusted against vacancies advertised for General and OBC categories respectively, which would result in a vacancy under the OH Category to be filled by the appellant.



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THE FACTUAL CONTEXT AND THE CONTROVERSY

5. Delhi University had undertaken a special recruitment drive for Persons with Disabilities (PWD). It had issued an advertisement dated 30.09.2009, inviting applications for filling up nine posts by PWD category, including the post of an Assistant Registrar/Administrative Officer/Assistant Controller of Examination by an OH category person. In terms of the advertisement, the last date for submission of the applications was 27.10.2009.

6. The appellant amongst other candidates, including respondent no.5, applied to the post of Assistant Registrar pursuant to the advertisement dated 30.09.2009.

7. Subsequently, on 13.04.2010, Delhi University issued another advertisement inviting applications from candidates under various categories for filling up vacancies for various posts. The said advertisement included applications for filling up vacancies of the post of Assistant Registrar in two categories. One reserved for OBC category and the second in the Unreserved (UR) category.

8. Apparently, respondent nos.3 and 4 amongst other candidates applied for the appointment to the post of Assistant Registrar pursuant to the advertisement dated 13.04.2010. Whilst, respondent no.3 being a General Category candidate applied under the UR category, respondent no.4 had applied for the post reserved for OBC candidate.



9. On 30.10.2010, a common written test was conducted by Delhi University for the selection and recruitment of the vacancies for the posts of Assistant Registrar (this included one General (UR) category and one reserved under OBC category for selection of candidates, who had applied pursuant to advertisement dated 13.04.2010. And, one for OH category candidates, who had applied pursuant to the advertisement dated 30.09.2009). Pursuant to the written test conducted on the aforesaid date, a common list of qualified candidates was notified on 01.04.2011 by Delhi University. The qualified candidates including the appellant were interviewed on 23.04.2011 and thereafter, a list of candidates selected for appointment to the post of Assistant Registrar in the UR, OBC and OH categories, was prepared. The same is set out below:

Category	Name of selected candidate	Total marks of selected candidate (maximum 450)
General (UR)	Shri Gaurav Anand (Respondent No.3)	294
OBC	Shri Prashant Nagar (Respondent No.4)	298
OH (Orthopedically handicapped)	Shri Pradeep Kumar (Respondent No. 5)	276

10. The appellant filed an application (OA No. 882 of 2011) under the Right to Information Act, 2005, seeking information from Delhi University regarding the candidates selected for the post of Assistant



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Registrar. Delhi University by a letter dated 18.07.2011 provided the list of candidates qualified for the interview along with their relevant information and qualifications. It also provided the result of all the candidates that had appeared for the interview for the aforesaid post.

11. It is the appellant's case that since, respondent no. 4 secured more marks than respondent no. 3, he ought to have been selected in the UR category for the post of Assistant Registrar. Since, respondent no. 5 belongs to both OH and OBC categories and had secured more marks than the candidate placed second in the merit list in OBC category, he must be selected for the post of AR under OBC category. And, the appellant ought to have been selected under the OH category. According to the appellant, respondent no.3 who was selected under the General/UR category was not entitled to be selected.

WRIT PETITION AND THE IMPUGNED ORDER

12. The appellant being aggrieved by the non-selection for the post of Assistant Registrar against the vacancy reserved for OH category candidates preferred a writ petition being W.P.(C) No. 7169/2011, *inter alia*, praying as under:

“(a) Issue a writ of mandamus or any other writ, order or direction to Respondent No.1 to amend the O.M. No. 36035/3/2004-Estt(Res) dated 29/12/2005 to provide that persons with disabilities from the SC/ST/OBC categories who qualify for selection on their own merit along with other candidates in their respective category are not to be adjusted against 3% vacancies reserved for person with



disabilities under Section 33 of the Persons with Disabilities Act, 1995; and

(b) Issue a writ of mandamus or any other writ, order or direction quashing the selection and appointment of Respondent no.3 to the post of Assistant Registrar against the unreserved (UR) vacancy and directing the Respondent No. 2 to adjust the Respondent No. 4 against the UR vacancy and Respondent No. 5 against OBC vacancy in the post of Assistant Registrar pursuant to the common selection and recruitment process for the post of Assistant Registrar advertised on 30.09.2009 and 13.04.2010; and

(c) Issue a writ of mandamus or any other writ, order or direction to Respondent No.2 to appoint the Petitioner to the post of Assistant Registrar against the vacancy reserved for orthopedically handicapped persons with disabilities in the advertisement dated 30/9/2009; and”

13. The aforesaid writ petition was dismissed by the learned Single Judge by the impugned order.

14. The learned Single Judge did not accept the appellant's contention that respondent nos.4 and 5 were required to be adjusted against the vacancies as claimed by the appellant.

15. The learned Single Judge held that there was no automatic shifting of the candidates who had applied for the post in the OBC category to the UR category, on the ground that such candidate had received higher marks than the candidate selected under the UR category. Similarly, the learned Single Judge also rejected the contention that the candidate selected under the PWD category was required to be automatically adjusted against the vacancies for the OBC



category candidates, even though such a candidate had not applied under the OBC category.

16. The learned Single Judge referred to the decision of the Supreme Court in *R.K. Sabharwal & Ors. v. State of Punjab & Ors.*¹ and observed that the reservation percentage in respect of the post had to be strictly followed. The learned Single Judge reasoned that in the event the candidates were shifted to different categories, it may lead to the reservations exceeding 50%, which was impermissible. Additionally, the learned Single Judge held that a different category may have different avenues for promotion and a candidate who had applied under the Reserved categories could not be compelled to accept appointment under the UR Category. The learned Single Judge also deliberated on the question whether a reserved candidate appointed under the UR Category could avail of promotional avenues reserved for OBC or other reserved categories. The learned Single Judge held that Rule 17 of the Rules for Competitive Examinations (Civil Services Examination), 2015 held by Union Public Service Commission (UPSC) as notified under Notification dated 23.05.2015 (hereafter '**the Rules**'), was required to be interpreted in an appropriate manner. The same would apply only for additional posts, failing which the percentage that was to be followed strictly amongst reserved and UR category candidates would stand varied, and the same was impermissible.

¹ (1995) 2 SCC 745



17. The learned Single Judge rejected the appellant's contention that there would be an automatic increase in the post for PWD category candidates merely because a candidate belong to the OBC category had obtained higher marks than the candidate in the General Category. The learned Single Judge also noted that respondent no.5 was opposing being shifted from PWD category to OBC category on the ground that it had never applied as an OBC candidate and the same may affect his future career graph.

SUBMISSIONS

18. Mr. Mani, learned counsel appearing for the appellant relied upon to paragraph 7 of the Office Memorandum dated 29.12.2005 (hereafter '**the 2005 OM**') in support of his contention that PWD category candidates selected on their own merit without relaxed standards are not required to be adjusted against the reservation for candidates under PWD category. He contended that in terms of paragraph 7 of the 2005 OM, if a candidate has secured higher marks and could be adjusted against the vacancies under other categories, he was required to be so adjusted. The reservation for candidates under PWD category was, thus, required to be filled by candidates who were not entitled to the appointment against vacancies under other categories (UR, OBC, SC and ST) on their own merit without any relaxation. He submitted that this may increase the number of candidates with disabilities but that was not opposed to the statute. He submitted that the requisite reservation in terms of Persons with Disabilities (Equal Opportunities, Protection of



Rights and Full Participation) Act, 1995 is not the maximum reservation. Thus, there is no impediment in increasing the number of candidates resulting from some persons with disabilities being selected on their own merit without any relaxed standards.

19. He referred to Rule 17 of the Rules and pointed out that the same expressly provided that more than the number of vacancies reserved for the PWD Category candidates, would be recommended on account of some of the candidates obtaining minimum qualifying marks on their own merit without relaxed standards.

20. He drew the attention of this Court to the Press Note dated 27.04.2007 which was issued by the Government of India, *inter alia*, stating that “*any physically challenged person, selected on the standards as applicable to the non-disabled candidate of his category, will be counted over and above the quota fixed for physically challenged persons.*”

21. He also referred to the decision of a Coordinate Bench of this Court in ***Union of India v. Pankaj Kumar Srivastava & Ors.***², whereby the challenge to an order passed by the Central Administrative Tribunal directing that candidates belonging to the reserved category on their own merits must be adjusted against UR category as provided in the 2005 OM, was rejected. Accordingly, it was directed that the other candidates belonging to visually impaired category must be selected

² Neutral Citation No. 2013: DHC:5283-DB



against the vacancies reserved for PWD category. He submitted that Government of India had carried the matter in appeal³ before the Supreme Court. However, by an order dated 01.02.2022, the Supreme Court directed compliance of the order passed by the Central Administrative Tribunal as upheld by this Court.

22. He submitted that thereafter, the Government of India issued an Office Memorandum⁴ (hereafter '**the 2022 OM**') clarifying that Persons with Benchmark Disabilities (hereafter '**PwBD**') selected without relaxed standards along with other UR category candidates, would not be adjusted against the reserved share of vacancies. Those vacancies would be filled up separately amongst eligible candidates with benchmark disabilities who are lower in merit than the last UR category in general merit list but are otherwise suitable for appointment, if necessary, by relaxed standards. The 2022 OM was accepted by the Delhi University and was circulated under cover of the Circular dated 25.10.2022, for compliance.

23. Lastly, he submitted that since respondent nos.3, 4 and 5 were selected by a common selection process, a single merit list, against the combined number of vacancies was required to be published. He referred to the decision of this Court in *Amit Singhal & Ors. v. The Chairman, DSSSB & Anr.*⁵; decision of the Central Administrative

³ Civil Appeal No.3303/2015

⁴ Office Memorandum No.36035/02/2017-Estt (Res) dated 27.09.2022

⁵ Neutral Citation No. 2010: DHC:2930-DB



Tribunal in *Tapan Neeraj v. Govt. of NCT of Delhi & Ors.*⁶; and, the decision of the Supreme Court in *Radhey Shyam Singh & Ors. v. Union of India & Ors.*⁷ in support of his aforesaid contention. He contended that in the instant case all the three vacancies for the post of Assistant Registrar, as well as the pool of candidates who had applied pursuant to the advertisements dated 30.09.2009 and 13.04.2010, were required to be merged.

24. Mr. Mohinder J.S. Rupal, learned counsel appearing for the Delhi University and Mr. M.A. Niyazi, learned counsel appearing for respondent nos.3 and 5 countered the aforesaid submissions.

25. Mr. Rupal submitted that the Delhi University had undertaken a special drive for recruitment of candidates from the PWD category and the appellant had applied pursuant to the said notification dated 30.09.2009. He, accordingly, could not be considered against vacancies advertised subsequently, that is on 13.04.2010. Mr. Niyazi also submitted that respondent no.5 had not applied under the OBC category, although in his application he had disclosed that he belonged to the said category. He submitted that respondent no.5 did not wish to be recruited against any other category and therefore, could not be compelled to do so. He also contended that the avenues of promotion may be different under the two categories (PWD and OBC category). Therefore, the

⁶ OA No.271/2012 dated 22.05.2013

⁷ (1997) 1 SCC 60



appellant could not insist that respondent no.5 be appointed for a vacancy reserved for OBC category candidates.

REASONS & CONCLUSION

26. It is material to note that this Court had by an order dated 25.04.2019 directed respondent no.1 (UOI) to file an affidavit to clarify that whether in terms of Press Note dated 27.04.2007, a candidate under the PWD category quota could be counted against a vertically reserved vacancy under OBC/SC/ST category on the principle of 'own merit'. This Court had also clarified that the said clarification was sought specifically in view of paragraph 17 of the Rules.

27. In compliance of the aforesaid order, an affidavit was filed on behalf of respondent no.1 by the Department of Personnel and Training (hereafter '**DoPT**'), *inter alia*, affirming that the Cadre Controlling Authorities of participating services in the Civil Services Examinations determines the functional classification and physical requirements, having due regard to the type of work to be carried out in that service or establishment. The DoPT's role is limited to allocation of services as per functional classification and physical requirements determined by the Cadre Controlling Authorities of various services. It was affirmed that after the receipt of the list of recommended candidates from the Union Public Service Commission (UPSC), as a first step, services are allocated to PwBD candidates from across all categories (UR, OBC, SC, ST) to which the successful PwBD category candidate belongs. The service allocation is done after taking into account the



candidate's rank in the order of merit list, his preference of various services, medical fitness with respect to functional classification, physical requirement to the participating services and availability of vacancies in the said category of PwBD. Thereafter, the services are allocated to non PwBD candidates for the remaining vacancies based on the order of their merit and preference. It was affirmed that the reservation for PwBD category candidates is horizontal in nature which cuts across each category, that is, UR, OBC, SC and ST. The reservation in respect of OBC, SC and ST category candidates is considered as vertical reservation and is materially different from horizontal reservation. It is affirmed that once vacancies are allocated to PwBD category candidates horizontally, the said vacancies are reduced from the respective category of vertical reservations to which PwBD category candidates belong.

28. It is apparent from the above that if a PwBD category candidate belongs to OBC category and is entitled to appointment on the basis of merit under that category, he would fulfill the reservation for an OBC category candidate as well as for PwBD category candidate. He would accordingly, be placed under the said vertical reservation (OBC) and the vacancies under the OBC category, to be filled by the persons other than PwBD, would stand reduced. This appointment would also be counted towards reservation of PwBD.

29. It was also affirmed that a PwBD candidate is recommended for appointment by UPSC on the basis of his claim for belonging to PwBD



category and the availability of vacancies in the sub-category of PwBD vacancies, such as vacancies for visually impaired or OH persons. It was also contended that candidates belonging to PwBD category are appointed against vacancies which are exclusively earmarked for them. This is because they would be required to pass medical examinations on the basis of general standards in respect of other vacancies and would not be able to satisfy those physical standards. It was accordingly affirmed that a PwBD category candidate is not entitled to service allocation against vacancies other than those specified for PwBD.

30. It is not disputed that the reservation for PWD candidates is a horizontal reservation and not a vertical one. In *Indra Sawhney v. Union of India*⁸, the Supreme Court had explained that there are two types of reservations which may be referred to as vertical reservation and horizontal reservation. The Court further explained as under:

“The reservations in favour of Scheduled Castes, Scheduled Tribes and other backward classes [under Article 16(4)] may be called vertical reservations whereas reservations in favour of physically handicapped [under clause (1) of Article 16] can be referred to as horizontal reservations. Horizontal reservations cut across the vertical reservations – what is called inter locking reservations.”

31. In *Union of India & Ors. v. National Federation of the Blind & Ors.*⁹, the Supreme Court had reiterated that the scheme for reservation for SC, ST and OBC categories is a vertical reservation whereas the reservation in favour of persons with disability is horizontal.

⁸ AIR 1993 SC 477

⁹ 2013 (12) SCALE 588



32. In *Rajesh Kumar Daria & Ors. v. Rajasthan Public Service Commission & Ors.*¹⁰, the Supreme Court had explained the mechanism of vertical reservation and horizontal reservation. Paragraph 7 of the said order reads as under:

“7. The second relates to the difference between the nature of vertical reservation and horizontal reservation. Social reservations in favour of SC, ST and OBC under Article 16(4) are ‘vertical reservations’. Special reservations in favour of physically handicapped, women etc., under Articles 16(1) or 15(3) are ‘horizontal reservations’. Where a vertical reservation is made in favour of a backward class under Article 16(4), the candidates belonging to such backward class, may compete for non-reserved posts and if they are appointed to the non-reserved posts on their own merit, their numbers will not be counted against the quota reserved for the respective backward class. Therefore, if the number of SC candidates, who by their own merit, get selected to open competition vacancies, equals or even exceeds the percentage of posts reserved for SC candidates, it cannot be said the reservation quota for SCs has been filled. The entire reservation quota will be intact and available in addition to those selected under Open Competition category. [Vide – *Indira Sawhney (Supra)*, *R. K. Sabharwal vs. State of Punjab* (1995 (2) SCC 745), *Union of India vs. Virpal Singh Chauhan* (1995 (6) SCC 684 and *Ritesh R. Sah vs. Dr. Y. L. Yamul* (1996 (3) SCC 253)]. But the aforesaid principle applicable to vertical (social) reservations will not apply to horizontal [special] reservations. Where a special reservation for women is provided within the social reservation for Scheduled Castes, the proper procedure is first to fill up the quota for scheduled castes in order of merit and then find out the number of candidates among them who belong to the special reservation group of ‘Scheduled Castes-Women’. If the number of women in such list is equal to or more than the number of special reservation quota, then there is no need for further selection towards the special reservation quota. Only if there is any shortfall, the requisite number of scheduled caste women shall have to be taken by deleting the corresponding

¹⁰ AIR 2007 SC 3127



number of candidates from the bottom of the list relating to Scheduled Castes. To this extent, horizontal (special) reservation differs from vertical (social) reservation. Thus women selected on merit within the vertical reservation quota will be counted against the horizontal reservation for women.”

33. The appellant also relied on paragraph 7 of the 2005 OM which reads as under:

“7. **ADJUSTMENT OF CANDIDATES SELECTED ON THEIR OWN MERIT:** Persons with disabilities selected on their own merit without relaxed standards alongwith other candidates, will not be adjusted against the reserved share of vacancies. The reserved vacancies will be filled up separately from amongst the eligible candidates with disabilities which will thus comprise physically handicapped candidates who are lower in merit than the last candidate in merit list but otherwise found suitable for appointment, if necessary, by relaxed standards. It will apply in case of direct recruitment as well as promotion, wherever reservation for persons with disabilities is admissible.”

34. It is material to note that whilst Union of India appealed the decision of the Coordinate Bench of this Court in *Union of India v. Pankaj Kumar Srivastava*² before the Supreme Court, it subsequently issued the 2022 OM³, *inter alia*, clarifying as under:

“4. Accordingly, the following clarifications are issued: -

- i. In line with the spirit of the O.M. No.36035/2/2017-Estt(Res.), dated 15.1.2018, and O.M. No.36012/1/2020-Estt(Res-II), dated 17.5.2022 on the subject, the concept of own merit for PwBD shall be implemented in all direct recruitment examinations, including the CSE and promotions, wherever applicable. In other words, PwBD category candidates selected without relaxed standard, along with other unreserved candidates, will not be adjusted against the reserved share of vacancies. The reserved vacancies will be filled up separately from amongst the eligible candidates with benchmark disabilities, who are



lower in merit than the last unreserved candidate in general merit list, but otherwise found suitable for appointment, if necessary, by relaxed standards.

- ii. In accordance with Para 3 of the OM No.29-6/2019-DD-III, dated 10.08.2022, issued by the Department of Empowerment of Persons with Disabilities, the facility of scribe, along with compensatory time shall not be treated as relaxed standard. DoPT, in agreement with this provision, reiterates that the facility of scribe taken by a PwBD candidate, along with compensatory time, shall not be treated as relaxed standard.
- iii. In terms of Corrigendum No.34-02/2015/DD-III(Pt.), dated 08.02.2019, the phrase 'extra time or additional time' is required to be replaced by the phrase 'compensatory time'
- iv. The spirit of the term 'own merit' will get defeated if the disability a person is suffering from, is treated as relaxed medical standard, as no PwBD will get the benefit of the term 'own merit' as stipulated in the Oms, dated 15.1.2018 and 17.5.2022 in such a scenario. Accordingly, it is clarified that disability of a person, which he is suffering from, shall not be treated as relaxed standard in medical fitness test for the purpose of 'own merit'."

35. *Prima facie*, it is difficult to reconcile paragraph 7 of the 2005 OM with the aforementioned decisions rendered by the Supreme Court in ***Rajesh Kumar Daria V. Rajasthan Public Service Commission & Ors.***¹⁰, ***Union of India & Ors. v. National Federation of Blind & Ors.***⁹ and ***Indra Sawhney v. Union of India***⁸.

36. However, we are of the view that it is not necessary for this Court to examine the mechanism for adjustment of candidates belonging to PwBD category, who otherwise qualify for appointment on their own merit, in the facts of this case. This is because both the appellant and



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respondent no.5 had applied for appointment pursuant to the advertisement dated 30.09.2009 and not pursuant to the advertisement dated 13.04.2010. As noted above, nine vacancies were advertised on 30.09.2009 for PWD which included six vacancies for OH candidate. These included one vacancy for appointment of an OH candidate to the post of Assistant Registrar / Administrative Officer / Assistant Controller of Examination. It is material to note that the advertisement clearly indicated that it was “a special recruitment drive for physically handicapped persons.” Mr. Uppal had submitted that at the material time, there was no vacancy in the post of Assistant Registrar for persons belonging to General, UR and/or the OBC category. Two vacancies to the post of Assistant Registrar were advertisement more than six months later, that is on 13.04.2010, and applications were invited for filling up one post under the UR category and one post under the OBC category. There was no vacancy advertised for PWD category candidate. The contention that respondent no.5 can be adjusted against vacancy that had arisen subsequently, is unmerited. Merely because a common written examination was conducted for candidates who had applied for appointment to the post of Assistant Registrar pursuant to the advertisement dated 30.09.2009 and the candidates who had applied pursuant to advertisement issued on 13.04.2010, does not imply that a candidate belonging to PWD category can be adjusted against vacancies that had arisen after his application for the said post. The two recruitments were different.



37. The decision of this Court in *Amit Singhal & Ors. v. The Chairman, DSSSB & Anr*⁵ is of little application. In that case, the petitioners, who were nurses and working on contractual basis, had approached the Central Administrative Tribunal praying that the Delhi Subordinate Services Selection Board be directed not to hold the common examination against the five posts in hospitals as well as vacancies in Delhi Jal Board and Department of Health and Family Welfare, Government of Delhi. The Central Administrative Tribunal rejected their prayer and this led the petitioners to approach this Court by filing a writ petition. This Court rejected the contention of the petitioners that the chances of the petitioners for appointment would diminish if a single examination was held for all vacancies in different departments. This Court held that since the vacancies were for staff nurses and their eligibility criteria was the same, there was no flaw in the decision to hold a single examination for selection to the post of staff nurses. This Court reasoned that even if a single examination was held for appointment to one department, and the other departments decided to follow the merit based on the examination conducted by the particular department, the decision could not be faulted. This Court rejected the contention that the petitioners had a right to insist for separate examination.

38. This was not a case which entails appointment of a person against the vacancy for which he / she had not applied for.



39. The decision of the Supreme Court in *Radhey Shyam Singh & Ors. v. Union of India*⁷ is also of no assistance to the appellant. In that case, the appellants had challenged the decision of the Central Administrative Tribunal dismissing their challenge to the selection process to various posts pursuant to an advertisement issued by the Staff Selection Commission. The Central Administrative Tribunal had rejected the appellants' challenge principally on the ground that it was raised after the appellants had participated in the examination and after the merit list was published. The examination was conducted for recruitment in various zones. The advertisement also provided that the merit list would be drawn up for each zone. It was appellants' case that the examination process may result in a candidate with lower marks securing an employment in a zone whereas the candidate who had scored higher marks in respect of another zone, may fail in securing an appointment. It was contended that the zone wise selection would result in devaluation of merit. The Supreme Court accepted the contention raised by the appellants. The Court held that if a zone wise selection was made then candidates who would appear in some zones and secure more marks and those who would appear from other zones, may be deprived of their selection. The Court also held that there was no nexus between the process of zone wise selection and the object of selecting the best candidate. Accordingly, the Court found that the selection process fell foul of Articles 14 and 16 of the Constitution of India. The appeal was, accordingly, allowed.



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40. The present case is not one where separate merit lists are being drawn in respect of a singular examination conducted pursuant to an advertisement. The present case is one where a common examination was held for evaluating the comparative merits of candidates who had applied pursuant to separate advertisements in respect of vacancies that were available at the material time when applications were made.

41. In view of the above, the present appeal is dismissed.

42. No order as to costs.

VIBHU BAKHRU, J

AMIT MAHAJAN, J

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RK/GSR