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**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

LPA-716-2026 (O&M)

Date of Decision: 16th March, 2026.

SUSHMA RANI

.....Appellant(s)

V/s

STATE OF HARYANA AND OTHERS

.....Respondent(s)

CORAM: **HON'BLE MR. JUSTICE ASHWANI KUMAR MISHRA**
HON'BLE MR. JUSTICE ROHIT KAPOOR

(Through Video Conference/Hybrid Mode)

Present Ms. Himani Makkad, Advocate, (*Appeared through VC*)
 Mr. Himalya Makkad, Advocate,
 for the appellant.

Mr. Saurabh Mohunta, DAG, Haryana.

Ms. Sheena Dahiya, Advocate, for
 Mr. Kanwal Goyal, Advocate, for the respondent-HPSC.

ASHWANI KUMAR MISHRA, J. (Oral)

1. This Appeal arises out of an order dated 25.02.2026 passed by the learned Single Bench, whereby Writ Petition i.e. CWP-5578-2026, filed by the appellant, has been dismissed.

2. Learned Single Judge has dismissed the Writ Petition filed by the appellant after observing that due representation to candidates belonging to the Person with Benchmark Disability, Orthopedically Handicapped (for short "PwBD-OH") category was satisfied. Two candidates belonging to PwBD-OH having been appointed, no further appointment against such vacancy need to be made.

3. Undisputedly, only one post was available to be filled with the PwDB-OH category. Three persons had applied in such category. The facts in that regard have been mentioned by the learned Single Judge. Devender Kumar, a BC-A category candidate with sub-category of PwDB-OH, secured 39.32 marks, while, Priti have also secured her appointment in the same category having scored 44.88 marks. The cut-off for BC-A category was 38.38 marks and for General category, it was 42.01 marks.

4. The primary grievance raised on behalf of the appellant was that since these candidates had already secured sufficient merit to be placed in BC-A/General category, as such they ought to have migrated to such category. However, migration was allowed only in the case of Priti and not in the case of Devender Kumar. It is, therefore, the appellant's case that one vacancy ought to have been filled with the appointment offered to appellant as she was next in line. In support of such contention, learned counsel for the appellant places reliance upon judgment of the Hon'ble Supreme Court in the cases of Rajesh Kumar Daria Vs. Rajasthan Public Service Commission and Others ; 2007(8) SCC 785 **AND** Saurav Yadav and Others Vs. State of Uttar Pradesh ; 2021(4) SCC 542.

5. Learned counsel for the respondents on the other hand opposes the claim made in the present Appeal.

6. Admittedly, the post in question was to be filled with candidates from PwBD-OH category. The reservation in this case is horizontal reservation and the vacancy is not in the case of vertical reservation. In case of horizontal reservation, if sufficient number of persons have otherwise

been selected in the respective category, further reservation would not be required by treating it to be a case of vertical reservation.

7. In *Rajesh Kumar Daria* (Supra), the issue was as to whether reservation for woman was required when 20% posts were already filled with appointments offered to 11 women candidates. Para 9 & 10 of the said judgement is reproduced as under:-

“9. In this case, the number of candidates to be selected under general category (open competition), were 59, out of which 11 were earmarked for women. When the first 59 from among the 261 successful candidates were taken and listed as per merit, it contained 11 women candidates, which was equal to the quota for 'General Category - Women'. There was thus no need for any further selection of woman candidates under the special reservation for women. But what RPSC did was to take only the first 48 candidates in the order of merit (which contained 11 women) and thereafter, fill the next 11 posts under the general category with woman candidates. As a result, we find that among 59 general category candidates in all 22 women have been selected consisting of eleven women candidates selected on their own merit (candidates at Sl.Nos.2, 3, 4, 5, 9, 19, 21, 25, 31, 35 & 41 of the Selection List) and another eleven (candidates at Sl.Nos.54, 61, 62, 63, 66, 74, 75, 77, 78, 79 & 80 of the Selection List) included under reservation quota for 'General Category-Women'. This is clearly impermissible. The process of selections made by RPSC amounts to treating the 20% reservation for women as a vertical reservation, instead of being a horizontal reservation within the vertical reservation.

***10.** Similarly, we find that in regard to 24 posts for OBC, 19 candidates were selected by RPSC in accordance with merit from among OBC candidates which included three woman candidates. Thereafter, another five women were selected under*

the category of 'OBC - Women', instead of adding only two which was the shortfall. Thus there were in all 8 women candidates, among the 24 OBC candidates found in the Selection List. The proper course was to list 24 OBC candidates as per the merit and then find out number of woman candidates among them, and only fill the shortfall to make up the quota of five for woman.”

8. In *Saurav Yadav and Others* (Supra), the principles laid down in *Rajesh Kumar Daria* (Supra) have been elaborated further. In Para 29 of the judgment in *Saurav Yadav and Others* (Supra), the Hon’ble Supreme Court observed as under:-

“29. *These sentences are taken to be a mandate that at the stage of horizontal reservation the candidates must be adjusted /accommodated against their respective categories by deleting corresponding number of candidates from such categories and that the principle applicable for vertical (social reservation) will not apply to horizontal (special reservation). In our view, these sentences cannot be taken as a declaration supporting the second view and are certainly being picked out of context.*

The observations in paragraph 18 in Anil Kumar Gupta and Others¹³ contemplated a situation where if “special reservation candidates” entitled to horizontal reservation are to be adjusted in a vertical column meant for “social reservation”, the corresponding number of candidates from such “social reservation category” ought to be deleted. It did not postulate that at the stage of making “special or horizontal reservation” a candidate belonging to any of the “social reservation categories” cannot be considered in Open/General Category. It is true that if the consideration for accommodation at horizontal reservation stage is only with regard to the concerned vertical reservation or social reservation category, the candidates

belonging to that category alone must be considered. For example, if horizontal reservation is to be applied with regard to any of the categories of Scheduled Castes, Scheduled Tribes or Other Backward Classes, only those candidates answering that description alone can be considered at the stage of horizontal reservation. But it is completely different thing to say that if at the stage of horizontal reservation, accommodation is to be considered against Open/General seats, the candidates coming from any of the reserved categories who are more meritorious must be side-lined. That was never the intent of the observations sought to be relied upon in support of the second view.

Similarly, the observations in Rajesh Kumar Daria were in the context of emphasizing a distinguishing feature between vertical and horizontal reservations; in that:-

(a) At the stage of vertical reservation, the reserved category candidates selected in Open/General category are not to be counted while filling up seats earmarked for the corresponding reserved categories.

(b) But the same principle of not counting the concerned selected candidates is not to apply for horizontal reservation.

Adopting principle (a) at the stage of horizontal reservation, the respondents in Rajesh Kumar Daria¹⁴ had separately allocated 11 seats for women in General Category as part of special or horizontal reservation, though another set of 11 women candidates had got selected, according to their own merit, in General Category quota. The quota of 11 seats for women having been already satisfied, this Court negated the theory that their number be disregarded while making horizontal reservation for women. It was in that context that the distinction between vertical and horizontal reservations was highlighted by this Court in paragraph 9 of the decision. The subsequent sentence “thus women selected on merit within the vertical reservation quota will be counted against the horizontal

reservation for women” in the very same paragraph and the illustration given thereafter are absolutely clear on the point.”

9. Since in the present case, vacancy in the concerned category was already filled with appointment of person in such category, no further horizontal reservation was required to have been applied in the present case.

10. In such circumstances, we find no error in the view taken by the learned Single Bench to non-suit the appellant. The appeal, therefore, fails and is **dismissed**, accordingly.

11. All pending applications, if any, in this case are disposed of accordingly.

[ASHWANI KUMAR MISHRA]
JUDGE

[ROHIT KAPOOR]
JUDGE

March 16, 2026
Ess Kay

<i>Whether speaking / reasoned</i>	:	<i>Yes</i>	/	<i>No</i>
<i>Whether Reportable</i>	:	<i>Yes</i>	/	<i>No</i>