



HIGH COURT OF JUDICATURE AT ALLAHABAD
SPECIAL APPEAL DEFECTIVE No. - 816 of 2025

Public Service Commission - Up, Prayagraj Through Its
Secretary

.....Appellant(s)

Versus

State Of U.P. And 47 Others

.....Respondent(s)

Counsel for Appellant(s)	:	Nipun Singh
Counsel for Respondent(s)	:	C.S.C., Siddharth Khare

Court No. - 29

HON'BLE MAHESH CHANDRA TRIPATHI, J.
HON'BLE ANISH KUMAR GUPTA, J.

1. A mention is being made by Shri Anoop Trivedi, learned Senior Advocate appearing for the appellant that against the judgement and order of learned Single Judge dated 25.09.2025 passed in Writ A No.8788 of 2025, the instant intra-court appeal is being preferred today and on the urgency being pressed before us as the mains examination is scheduled on 28.09.2025, we have asked the Registry to place the matter before this Court.
2. Heard Shri Anoop Trivedi, learned Senior Advocate assisted by Shri Nipun Singh for the appellant-respondent and Shri Ashok Khare, learned Senior Advocate assisted by Shri Siddharth Khare, learned counsel for the defendants-petitioners.
3. The Public Service Commission, U.P. Prayagraj through its Secretary is before this Court assailing the validity of the judgement and order dated 25.09.2025 passed in Writ A No.8788 of 2025 (Rajat Maurya and 41 others vs. State of UP and 6 others) connected with Writ A NoS.17604 of 2025 and 11404 of 2025.
4. It appears from the record that 604 posts were initially advertised in total 5 groups by the Public Service Commission, U.P. (in short, the Commission) vide advertisement No.A-9/E-1/2024 dated 17.12.2024 inviting applications from eligible candidates and later on, 5 posts were added totalling to 609 posts. The petitioners/respondents applied for the posts of Civil/ Mechanical Engineer pursuant to the advertisement and also some of the petitioners have applied for Group-B posts of District Horticulture Officer/Food Processing Officer and Group-A category posts Senior Technical Assistants in different branches, Chemistry/ Botany/

Agronomy/ Plant Protection and Development. The preliminary examination (screen test) was conducted by the Commission. The dispute arose only when the result was published on 26.05.2025 qualifying only 7358 candidates against 609 vacancies, which according to the petitioners was not in consonance with clause 11(8) of the advertisement. Feeling aggrieved, the petitioners-respondents approached this Court by preferring the aforesaid writ petitions with request to issue direction to the Commission to permit them to participate in the mains examination for recruitment of Assistant Engineer (Mechanical)/(Civil) in pursuance to advertisement dated 27.12.2024. Finally, learned Single Judge has proceeded to allow the writ petitions with following observations:-

"48. The division bench judgment is equally binding upon me and no judgment has been cited of this Court or of the Supreme Court, which may have reversed the judgment of the division bench. The argument as to principle of "level playing field" to invite every category candidate to participate in the open competition would get frustrated if adequate representation of the reserved category candidates, as argued by Mr. Trivedi, does not impress the Court either. A candidate may have applied under reserved category but if he is not benefited by any relaxation other than the age and concession in fee at the preliminary examination result, then he can always enter unreserved category not only at the stage of final selection but at the same time when preliminary examination/screening test is held which may be only to shortlist candidates to find suitable candidates.

49. In my considered view whoever performs better/equal to a candidate of unreserved category would automatically fall in unreserved category, it being open to all as has been held in Saurav Yadav (supra), an earlier decision of Supreme Court to Deependra Yadav. There cannot be a bar to entry of such candidates even while holding preliminary examination/screening test. The open category means open and when it comes to be a matter of adequate representation qua reserved category candidates, if a reserved category candidates matching cut off marks of candidates of unreserved category candidate, are permitted to march to the unreserved category, then it will be more a case of level playing field to invite all equals to participate in open competition. One must not forget that equality before law and equal protection of laws means "likes to be treated alike" and hence whoever competes with the candidates of open category and falls within the cutoff of that category as may be prescribed, would constitute a class for limited purposes to from suitable candidates' group within the meaning of Article 14 of the Constitution. Confining such a candidate to the reserved category only for the reason that list has been published category-wise, would definitely amount to discrimination.

50. On the point of changing rules of the game while selection is on and the point that petitioners having submitted to the advertisement, they could not have raised this issue, suffice it to observe that interpretation to Clause (14) of advertisement would not amount to changing the rules of the game. Even otherwise if legal position through common law judgments has already got crystallized, more especially in the circumstances when in State of U.P. there are no rules as such, this Court may, therefore, intervene to arrest any discrimination or arbitrariness at the end of selection body. Qualifying standard for final selection to migrate a candidate to unreserved category means he must not have been placed in reserved category for any relaxation other than age and fee concession this does not mean preparation of unreserved category list in preliminary examination would oust meritorious reserved category candidates and so also on the principle of law laid down by Supreme Court in Deependra Yadav (supra) and Division Bench judgment of this Court in the case of U.P. Power Corporation (supra). This would amount to discrimination as already observed in preceding paragraph.

51. However, I may hasten to add here that there is no rule framed as such in

the State of U.P. for preparation of result by the selecting body by drawing list of unreserved category first bringing within its hold those reserved category candidates who have attained marks matching or above unreserved category candidates but it is a matter of interpretation of existing circulars and memorandum and the conditions given under advertisement, in consonance with principle and object behind reservation and of course, in the light of common law through judgments that have made this above principle of preparation list of suitable candidates permissible even in preliminary examination.

52. In view of above, all these petitions succeed and are allowed to the extent that respondent U.P. Public Service Commission shall re-draw the merit list of the preliminary examination result of suitable candidates to qualify for next stage of final examination for the purposes of selection and appointment against vacancies advertised vide advertisement No. A-3/E-1/2024 dated 10.4.2024 and thereafter only Commission shall be holding main examination on the basis of such revised preliminary examination result.

53. There will be no order as to cost.”

5. The matter has been placed before the Court at 12.35 PM. As per today's roster, the Court is available only upto recess i.e. 1:00 P.M.

6. Shri Anoop Trivedi, learned counsel for the appellant submits that the mains examination is scheduled to be held on 28.09.2025. All the preparations have already made for holding examination and accordingly, admit cards have already been issued and the centres have been allotted. He fairly submits that in case the examination is held, definitely the same would be subject to the final outcome of the appeal.

7. The same is being accepted by Shri Ashok Khare, learned Senior Advocate for the defendants/petitioners.

8. We find that the writ petitions preferred by about 50 petitioners have been allowed by learned Single Judge vide impugned judgement and order dated 25.09.2025 with direction to the Commission to re-draw the list. At this stage, this Court feels that as the examination is going to be held on 28.09.2025 and since more than 7000 candidates will be appearing in the said examination, any disturbance in the examination at the eleventh hour will result in great chaos and injustice to the appearing candidates. Therefore, to maintain equity and balance of justice it will be in the interest of justice to allow the examination to be held on the scheduled date but the result will be subject to final outcome of the Special Appeal.

9. Let the objection be filed on or before the next date fixed.

10. List this matter before the appropriate Court on **07.10.2025**.

11. Considering the facts and circumstances and the urgency of the matter, as an interim measure, we provide that the mains examination,

which is scheduled to be held on 28.09.2025, may be held as per programme and the same would definitely be subject to outcome of the instant intra-court appeal. Meanwhile, the respondents/appellant Commission is restrained to declare the result of the mains examination. Accordingly, the operative portion/paragraph '52' of the impugned judgement shall remain stayed till the next date of listing.

12. Let copy of the order be given to learned counsel for the parties on payment of usual charges **today**.

September 26, 2025
Shubham Arma/RKP

(Anish Kumar Gupta,J.) (Mahesh Chandra Tripathi,J.)