

2024 LiveLaw (SC) 342

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
C.T. RAVIKUMAR; J., SANJAY KUMAR; J.
May 1, 2024

Civil Appeal No. 5604 of 2024 (@ Special Leave Petition (C) No. 5817 of 2023)
Deependra Yadav and others versus State of Madhya Pradesh and others

Madhya Pradesh State Service Examination Rules, 2015; Rule 4(3)(d)(III) – Amended Rule 4(3)(d)(III) is challenged to be *ultravires* – The amended Rule 4(3)(d)(III) read as, that meritorious reservation category candidates, who did not avail any benefit of relaxation, are not to be clubbed with meritorious unreserved category candidates at the time of declaring the result of the preliminary examination itself. Such adjustment will only be at the time of final selection, not at the time of preliminary/main examination – *Held*, amended Rule 4(3)(d)(III) patently harmed the interests of the reservation category candidates, as even meritorious candidates from such categories, who had not availed any reservation benefit/relaxation, continued to occupy the reservation category slots which would have otherwise gone to deserving reservation category candidates lower down in the merit list of that category, had they been included with meritorious unreserved category candidates on the strength of their marks. Further held, the State of Madhya Pradesh itself realized the harm that it was doing to the reservation category candidates and chose to restore Rule 4, as it stood earlier, which enabled drawing up the result of the preliminary examination by segregating deserving meritorious reservation category candidates with meritorious unreserved category candidates at the preliminary examination stage itself. (Para 8, 30 & 32)

Madhya Pradesh State Service Examination Rules, 2015 – Normalization of marks – Normalization was undertaken in the context of the marks obtained by candidates in the two main examinations by applying a formula, so as to bring them all on an even keel so as to finalize the list of candidates eligible to be interviewed. This was done by applying a formula uniformly to the marks secured by all the candidates who appeared in the two main examinations, so that their marks would become comparable and enable preparation of a unified marks list. *Held*, the process of normalization and the consequential merger of the marks secured by the candidates who appeared in the two main examinations cannot be found fault with. (Para 26 & 29)

With Special Leave Petition (C) No. 23514 of 2023 & Special Leave Petition (C) No. 27620 of 2023

(Arising out of impugned final judgment and order dated 25-01-2023 in WA No. 1706/2022 passed by the High Court of M.P. Principal Seat at Jabalpur)

For Parties Mr. R Bala Subramanyam, Sr. Adv. Mr. Jitendra Kumar Tripathi, Adv. Mr. Amit Sharma, AOR Mr. Alok Kumar, Adv. Mr. Yuvraj Nangia, Adv. Mr. Ravi Kumar, Adv. Mr. Aman Varma, AOR Mr. Harsh Parashar, AOR Mr. Chanakya Sharma, Adv. Mr. Sunny Choudhary, AOR Mr. Saurabh Mishra, A.A.G. Mr. Bajinath Patel, Adv. Mr. Atmaram N. S. Nadkarni, Sr. Adv. Dr. Harsh Pathak, Adv. Ms. Shaveta Mahajan, AOR Mr. Mohit Choubey, Adv. Mr. Santosh Rebello, Adv.2 Ms. Samridhi S. Jain, AOR Mr. Rakesh Mishra, AOR Mr. Ambuj Sharma, Adv. Mr. Alok Kumar Pandey, Adv. Ms. Kiran Pandey, Adv. Ms. Mamta Rani, Adv.

J U D G M E N T

SANJAY KUMAR, J

1. Leave granted only in SLP (C) No. 5817 of 2023.

2. One lapse on the part of the State is all it took to generate this litigation, impacting multitudes of job aspirants in the State of Madhya Pradesh. The lapse was the amendment of an existing service rule on 17.02.2020 which was recalled thereafter on 20.12.2021, restoring the rule to its original position, but in the interregnum that amended rule was applied to an ongoing recruitment process. This prompted several challenges before the High Court of Madhya Pradesh at Jabalpur resulting in a spate of orders and directions leading up to these cases before us.

3. The Madhya Pradesh Public Service Commission (MPPSC) issued an advertisement on 14.11.2019 proposing to select candidates for 571 posts in the State services in accordance with the Madhya Pradesh State Service Examination Rules, 2015 (for brevity, 'the Rules of 2015'). The Rules of 2015 were framed in exercise of power under the *proviso* to Article 309 of the Constitution of India. The Madhya Pradesh State Service Examination-2019 was scheduled to be held by the MPPSC for filling up these posts, by conducting a preliminary examination followed by the main examination and interviews. The preliminary examination took place on 12.01.2020. The total number of candidates who registered for the preliminary examination stood at 3,64,877 but only 3,18,130 of them actually appeared for the examination. At that stage, on 17.02.2020, Rule 4 of the Rules of 2015 was amended by the State of Madhya Pradesh. Rule 4, as it stood prior to the amendment and to the extent relevant for the purposes of this adjudication, read as under:

'Rule 4. Mode of preparation of select list.

(1)(a)(i) On the basis of marks obtained in Preliminary Examination, candidates numbering 15 times the vacancies as advertised category wise will be declared successful for Main examination subject to the condition that candidates have scored minimum passing marks as may be specified by the Commission. In addition to this, all the other candidates who get marks equal to "Cut Off Marks" will also be declared successful for the main examination.

(ii) Firstly, a list of Candidates of unreserved category shall be prepared. This list will include the candidates selected on the basis of the common merit from Scheduled Castes, Scheduled Tribes and Other Backward Classes, who have not taken any advantage/relaxation given to the concerned category.

(iii) Secondly, separate lists of Scheduled Castes, Scheduled Tribes and Other Backward Classes will be prepared.

.....

(d) A common list of successful candidates shall be prepared after the preparation of all four lists, and examination result will be declared thereafter. This list will be roll number wise.'

4. It is clear from a bare reading of the above Rule 4 that the result of the preliminary examination was to be declared by clubbing meritorious reservation category candidates, who had not availed any reservation benefit, with the meritorious unreserved category candidates and not with their respective reservation category candidates. While so, the amendment effected on 17.02.2020 brought about a sea change in this methodology. To the extent relevant, the amended Rule 4 of the Rules of 2015 read thus:

'4. Mode of preparation of select list: -

(1)(a)(I) On the basis of marks obtained in Preliminary Examination, category wise candidates numbering 15 times of the vacancies as advertised will be declared successful for Main examination subject to the condition that candidates have scored minimum passing marks as may be specified by the Commission. In addition to this, all the other candidates who get marks equal to "Cut Off Marks" will also be declared successful for the main examination.

(II) Separate Lists of Candidates applied in Unreserved, Scheduled Castes, Scheduled Tribes, Other Backward Classes and Economically Weaker Section shall be prepared. Reservation shall be given to Women and ExServicemen in all categories as per rules and instructions issued in this regard from time to time.

.....

(d) A common list of successful candidates shall be prepared after the preparation of all five lists, and there after examination result will be declared. This list will be roll number wise.

.....

(3)(d)(I) Results of Preliminary/Main Examination, the candidates shall be declared in the category mentioned as their category in their online application form.

(II) Candidates of reserved category (Scheduled caste/Scheduled Tribe/Other Backwards Classes/Economically Weaker Section) who get selected like general category candidates without any relaxation shall not be adjusted against the posts reserved for those reserved categories. They shall be adjusted against vacancies of unreserved category. (III) But above adjustment will only be at the time of final selection, not at the time of preliminary/main examination.'

5. In effect, the amended Rule 4 of the Rules of 2015 provided that adjustment and segregation of meritorious reservation category candidates with meritorious unreserved category candidates would be only at the time of final selection and not at the time of the preliminary/main examination.

6. Surprisingly, the amended Rule 4 was applied to the ongoing recruitment process relating to the notified 571 vacant posts. The result of the preliminary examination conducted on 12.01.2020 was declared on 21.12.2020, applying the amended Rule 4. Thus, there was no segregation of meritorious reservation category candidates with those from the unreserved category and they were shown in their respective reservation categories only. The number of candidates who cleared the preliminary examination on this basis were 10,767.

7. While so, the *vires* of amended Rule 4(3)(d)(III) of the Rules of 2015 was challenged by some of the candidates in a batch of writ petitions before the High Court of Madhya Pradesh at Jabalpur. By interim order dated 22.01.2021 passed in those cases, the High Court directed that the recruitment process initiated pursuant to the preliminary examination result dated 21.12.2020 shall remain subject to the outcome of the writ petitions. Pursuant thereto, the MPPSC conducted the main examination of the Madhya Pradesh State Service Examination-2019 from 21.03.2021 to 26.03.2021. While so, on 20.12.2021, the Rules of 2015 were again amended by the State of Madhya Pradesh. Thereby, the position existing prior to the amendment effected on 17.02.2020 was restored. The newly amended Rule 4 of the Rules of 2015 read thus:

4(1)(a)(i) On the basis of marks obtained in the preliminary examination category wise candidates 20 times the number of advertised vacancies shall be declared successful for the main examination subject to the condition that the candidates have secured such minimum passing marks as may be specified by the Commission. In addition, all other candidates who have obtained marks equal to the 'cut off marks' shall also be declared qualified for the main examination.

(ii) First of all, the cut off marks of unreserved category shall be determined. After this, those candidates belonging to the reserved category (Scheduled Castes, Scheduled Tribes, Other Backward Classes and Economically Weaker Sections) who have obtained marks more than or equal to the prescribed "cut off" of the unreserved category and who have taken the benefit of

relaxations from time to time, shall be included in the respective category by separating them from the list of unreserved category.

(iii) In the second phase, category-wise cut off marks of the reserved candidates shall be determined by preparing category-wise separate lists of candidates belonging to Scheduled Castes, Scheduled Tribes, Other Backward Classes and Economically Weaker Sections.

.....

(c) After preparation of all the five lists, a common list of eligible candidates shall be prepared and thereafter the result shall be declared roll number wise.

8. Further, the amended Rule 4(3)(d)(III) was altogether omitted from the Rules of 2015. The result of such omission and Rule 4(1)(a)(ii), as it presently reads, is that meritorious reservation category candidates, who did not avail any benefit of relaxation, are to be clubbed with meritorious unreserved category candidates at the time of declaring the result of the preliminary examination itself. In effect, *status quo ante* was restored.

9. Notwithstanding this amendment, the result of the main examination held between 21.03.2021 and 26.03.2021 was declared by the MPPSC on 31.12.2021 and the number of candidates who provisionally qualified for interviews were 1918. However, by judgment dated 07.04.2022, a Division Bench of the High Court of Madhya Pradesh at Jabalpur partly allowed the pending writ petitions, viz., W.P. No. 542 of 2021 and batch, titled '**Kishor Choudhary vs. State of Madhya Pradesh and another**'. Challenge in this batch of cases was not only to the validity of amended Rule 4(3)(d)(III) of the Rules of 2015 but also to Section 4(4) of the Madhya Pradesh Lok Seva (Anusuchit Jatiyon, Anusuchit Jan Jatiyon aur Anya Pichhade Vargon Ke Liye Arakshan) Adhiniyam, 1994 (for brevity, 'the Adhiniyam'). Section 4(4) of the Adhiniyam reads as follows: -

'4(4). If a person belonging to any of the categories mentioned in sub-section (2) gets selected on the basis of merit in an open competition with general candidates, he shall not be adjusted against the vacancies reserved for such category under sub-section (2).'

The Division Bench upheld the validity of Section 4(4) of the Adhiniyam but declared Rule 4(3)(d)(III) of the Rules of 2015 *ultra vires* and set it aside. The Division Bench directed that, resultantly, the recruitment process must be conducted and completed in consonance with the unamended Rules of 2015.

10. Thereupon, the MPPSC issued Advertisement dated 29.09.2022 proposing to reconduct the main examination in compliance with the Division Bench judgment. This examination was proposed to be conducted in the second week of January, 2023. Further, on 10.10.2022, the MPPSC declared the revised result of the preliminary examination, in tune with the unamended Rule 4 of the Rules of 2015. In consequence, 13,080 candidates were declared qualified for the main examination, instead of the 10,767 candidates declared eligible earlier as per amended Rule 4(3)(d) (III).

11. While so, some candidates filed W.P. No. 23828 of 2022 before the High Court of Madhya Pradesh at Jabalpur assailing the decision of the MPPSC to cancel the result of the main examination held earlier on the ground that they would be required to reappear for the said examination despite clearing it in the first instance. The petitioners in SLP (C) No. 5817 of 2023, from which this appeal arises, intervened in the said writ petition and they were also heard. This writ petition was filed on 13.10.2022.

12. At that stage, Review Petition Nos. 1112 and 1175 of 2022 were filed seeking clarification of the judgment dated 07.04.2022 in **Kishor Choudhary** (*supra*). However, by order dated 18.11.2022, the Division Bench disposed of the review petitions leaving it

open to the writ Court to consider and interpret its earlier judgment dated 07.04.2022. This order was passed as the Division Bench was informed of the fact that a fresh writ petition, viz., W.P. No. 23828 of 2022, was pending consideration.

13. A learned Judge of the High Court of Madhya Pradesh allowed W.P. No. 23828 of 2022 and batch, titled '**Harshit Jain and others vs. State of Madhya Pradesh and another**' on 29.11.2022. Therein, the learned Judge noted that four categories of candidates emerged: (i) the newly qualified reservation category candidates for the main examination (2,721, in number), as per the result dated 10.10.2022; (ii) 1,918 select list candidates, who had passed the main examination held from 21.03.2021 to 26.03.2021 and qualified for the interview; (iii) candidates out of these 1,918 candidates, who would be ousted from that select list of 1,918 candidates, if the special main examination is conducted and the results are normalized; and (iv) 8,894 candidates, out of the 10,767 candidates, who had appeared for the main examination earlier but could not pass it.

14. The learned Judge observed that if the result of the main examination was cancelled, a premium would be given to the candidates from the fourth category by reviving their candidature, though they had failed to qualify in the first instance, and a right would be taken away from candidates who had already cleared the main examination and qualified for the interview. The learned Judge opined that this would cause serious prejudice and grave injustice to candidates who were declared eligible and had qualified in the short-listing process and that holding the entire main examination afresh would not only result in incurring huge costs but would also cause grave injustice to a large number of candidates, who had already cleared the main examination and were short-listed for the interview, without any fault on their part. Holding so, the learned Judge invalidated the decision taken by the MPPSC on 10.10.2022, proposing to hold a fresh main examination by cancelling the earlier one, and directed the MPPSC to hold a special main examination, as was done by it earlier on several occasions, for the new eligible reservation category candidates, as per the redrawn preliminary examination result. The learned Judge directed that, on the basis of the results of these two main examinations, a fresh list of selected candidates should be prepared in terms of the Rules of 2015 for the interview, by merging and normalizing the two lists, as per the process adopted by the MPPSC on previous occasions. This exercise was directed to be completed within six months.

15. Aggrieved by this judgment, three of the petitioners in SLP (C) No. 5817 of 2023 preferred an appeal before a Division Bench of the High Court. By judgment dated 25.01.2023 passed in Writ Appeal No. 1706 of 2022, the Division Bench dismissed the appeal, holding that the order passed by the learned Judge was just, proper and well-reasoned and did not call for any interference.

16. The judgment dated 25.01.2023 of the Division Bench was assailed before this Court in SLP (C) No. 5817 of 2023, from which the present appeal arises. By order dated 10.04.2023, this Court rejected the prayer therein for interim relief but directed that, in the interest of justice, any proceedings/processes pursuant to the advertisement in question shall remain subject to the final orders to be passed in this case.

17. Prior thereto, by Advertisement dated 10.01.2023, the MPPSC notified that the main examination for the new candidates as per the revised preliminary examination result would be held from 15.04.2023 to 20.04.2023 in compliance with the judgment dated 29.11.2022 in W.P. No. 23828 of 2022. Thereafter, by order dated 13.01.2023, the MPPSC declared ineligible for interview some of the candidates who had cleared the main examination in the first instance. This was on the basis of the revised preliminary

examination result, whereby 398 candidates out of the 1918 candidates who had cleared the earlier main examination stood ousted at the preliminary examination stage.

18. Challenging the order dated 13.01.2023, some of the affected candidates approached the High Court of Madhya Pradesh at Jabalpur, *vide* Writ Petition No. 4783 of 2023 and batch. The said batch of cases, titled '**Vaishali Wadhvani and others vs. The State of Madhya Pradesh and another**', was disposed of by a learned Judge of the High Court by judgment dated 23.08.2023. The learned Judge partly allowed those cases, but directed the MPPSC to merge and normalize the result of the first main examination and the result of the special main examination, held on the strength of the revised preliminary examination result, as directed in **Harshit Jain** (*supra*). Thereafter, the same learned Judge disposed of Writ Petition No. 25087 of 2023, titled '**Priyanka Pandey vs. The State of Madhya Pradesh and another**', by judgment dated 07.10.2023, holding that his judgment in **Vaishali Wadhvani** (*supra*) was a judgment *in rem* and would apply to all the candidates who passed the main examination in the first instance and directed the MPPSC not to discriminate between candidates who approached the Court and those who did not.

19. The special main examination for the reservation category candidates who were declared eligible, in terms of the revised preliminary examination result, was conducted from 15.04.2023 to 20.04.2023. Their results were declared on 18.05.2023, after normalizing and merging the results of both the main examinations. The process of normalization of the results of the two main examinations was effected by the MPPSC in consultation with and under the guidance and advice of two experts. Normalization was undertaken in the context of the marks obtained by candidates in the two main examinations by applying a formula, so as to bring them all on an even keel. Thereby, 1983 candidates stood qualified for the interview. Out of the 1983 candidates declared qualified for the interview, 1,520 candidates figured in the list of 1918 candidates declared eligible earlier, on the strength of the first main examination, and the remaining 463 candidates emerged successful either in the special main examination or in the normalization process. Totally, 398 candidates out of the 1918 candidates, who were declared eligible for the interview earlier, stood ousted and were no longer eligible.

20. The MPPSC then issued Notification dated 23.06.2023, calling upon the 1983 selected candidates to appear for the interviews. Some of the ousted 398 candidates filed writ petitions before the High Court and were granted interim relief, by permitting them also to appear for the interviews. Interviews were conducted from 09.08.2023 to 19.10.2023.

21. The MPPSC filed Writ Appeal No. 2017 of 2023, aggrieved by the judgment in **Vaishali Wadhvani** (*supra*), on the ground that it proceeded on the erroneous assumption that the normalization process was applied to the marks secured in the preliminary examination and not in the two main examinations held thereafter. By interim order dated 19.12.2023, a Division Bench of the High Court stayed the order dated 23.08.2023 passed in **Vaishali Wadhvani** (*supra*). Aggrieved thereby, Vaishali Wadhvani and others filed miscellaneous applications, seeking vacating of the stay granted by the Division Bench in Writ Appeal No. 2017 of 2023. These applications were dismissed on 12.02.2024.

22. We are informed that the State of Madhya Pradesh proceeded on the strength of the results declared after the normalization and also issued appointment orders to the selected candidates, thereby enabling them to join service. Insofar as the seven petitioners in SLP (C) No. 5817 of 2023 are concerned, the MPPSC stated that only three of them had cleared the preliminary examination, as per the pre-revised result dated

21.12.2020, and were eligible to write the main examination. However, one of them did not appear for the main examination while the other two did and failed. Thereafter, all seven of them were declared eligible, in terms of the revised preliminary examination result dated 10.10.2022, but they failed the special main examination and in the process of normalization held thereafter, as per the results declared on 18.05.2023.

23. Be it noted that Vaishali Wadhvani and others, the petitioners in Writ Petition No. 4783 of 2023 and batch, were successful before the High Court to some extent inasmuch as their writ petitions were partly allowed by the judgment dated 23.08.2023, but directing the MPPSC to merge and normalize the two lists, i.e., the result of the first main examination and the result of the special main examination. They, however, chose to file SLP (C) No. 23514 of 2023 before this Court against the said judgment dated 23.08.2023. As already noted hereinabove, Writ Appeal No. 2017 of 2023 was filed against the very same judgment by the MPPSC before a Division Bench of the High Court and the said appeal is pending consideration. More importantly, the petitions filed therein by Vaishali Wadhvani and others, seeking the vacating of the stay of the judgment dated 23.08.2023, were dismissed and that order was not subjected to challenge by them. Having sought vacating of the stay order passed in relation to the judgment dated 23.08.2023, in effect, seeking implementation thereof, it is surprising that Vaishali Wadhvani and the others sought to challenge the very same judgment before this Court. In any event, even if they have any grievance with the said judgment, it is not open to them to bypass the remedy of appeal available to them before the High Court itself. We are, therefore, not inclined to entertain their special leave petition.

24. Similarly, Mamta Mishra, who was also a petitioner in Writ Petition No. 4783 of 2023 along with Vaishali Wadhvani, chose to file SLP (C) No. 27620 of 2023 assailing the judgment dated 23.08.2023 passed therein. For reasons alike, as stated in the context of SLP (C) No. 23514 of 2023 filed by Vaishali Wadhvani and others, this special leave petition also does not merit consideration.

25. I.A. No. 102595 of 2023 was filed by four candidates seeking to come on record in SLP (C) No. 5817 of 2023. They claimed to be similarly situated to Deependra Yadav, the first petitioner therein. IA No. 132609 of 2023 was filed by two of the 398 ousted candidates, seeking to be impleaded in SLP (C) No. 5817 of 2023. I.A. No. 228055 was filed by 182 candidates seeking to come on record in SLP (C) No. 5817 of 2023, so as to support the petitioners therein. They stated that they stood ousted after normalization and merger of the marks secured by candidates in the two main examinations. However, as grievances of candidates who appeared in the Madhya Pradesh State Service Examination-2019 are not personal or individual to them alone and we are concerned with resolving the larger issue, we do not consider it necessary to implead any of these individual candidates who were not parties before the High Court or give them a hearing. In any event, all the relevant issues and aspects have been comprehensively and conclusively addressed by the learned senior counsel/counsel appearing for the parties on record and nothing more remains to be added thereto.

26. Further, we had requested the two experts, who had guided the MPPSC in undertaking the process of normalization, to appear before us so as to explain the methodology adopted. Having heard the two experts, namely Dr. Vastashpati Shastri and Mr. Indresh Mangal, we are fully satisfied that a transparent process, which was completely above board, was adopted to bring all the candidates onto an even platform so as to finalize the list of candidates eligible to be interviewed. This was done by applying a formula uniformly to the marks secured by all the candidates who appeared in the two

main examinations, so that their marks would become comparable and enable preparation of a unified marks list.

27. Significantly, in ***State of U.P. and others vs. Atul Kumar Dwivedi and others***¹, this Court had occasion to consider application of moderation/scaling of marks in a recruitment process and as to when such an exercise would be permissible. It was observed that normalization of marks means increasing and/or decreasing the marks obtained by students in different timing sessions (shifts) to a certain number, as observed by the High Court in its judgment, and it was noted that such normalization techniques help in comparing corresponding normalized values from two or more different data sets in a way that it eliminates the effects of the variation in the scale of the data sets, i.e., a data set with large values can be easily compared with a data set of smaller values and the normalized score/percentile is obtained by applying a formula. This Court, accordingly, concluded that the exercise undertaken in adopting the process of normalization was quite consistent with the requirements of law. This Court further observed that decisions made by expert bodies, including the Public Service Commissions, should not be lightly interfered with, unless instances of arbitrary and mala fide exercise of power are made out.

28. On similar lines, in ***Tajvir Singh Sodhi and others v. State of Jammu and Kashmir and others***², this Court observed that interference in the selection process for public employment should generally be avoided, recognizing the importance of maintaining the autonomy and integrity of the selection process. Noting that Courts would recognize that the process of selection involves a high degree of expertise and discretion and that it would not be appropriate for Courts to substitute their judgment for that of a selection committee, it was observed that it is not within the domain of the Court, exercising the power of judicial review, to enter into the merits of a selection process, a task which is the prerogative of and is within the expert domain of a selection committee, subject of course to a caveat that if there are proven allegations of malfeasance or violations of statutory rules, only in such cases of inherent arbitrariness, can the Courts intervene.

29. The detailed explanation by the experts being rather technical, we do not propose to burden this judgment with the same, but the learned senior counsel/counsel opposing the MPPSC, who also heard the experts, did not bring to our notice any lacuna in the process adopted or the formula applied, whereby injustice was done to any candidate or any arbitrariness crept in. We, therefore, hold that the process of normalization and the consequential merger of the marks secured by the candidates who appeared in the two main examinations cannot be found fault with.

30. We may also note that Rule 4(3)(d)(III) of the Rules of 2015 patently harmed the interests of the reservation category candidates, as even meritorious candidates from such categories, who had not availed any reservation benefit/relaxation, were to be treated as belonging to those reservation categories and they were not to be segregated with meritorious unreserved category candidates at the preliminary examination result stage. As a result, they continued to occupy the reservation category slots which would have otherwise gone to deserving reservation category candidates lower down in the merit list of that category, had they been included with meritorious unreserved category candidates on the strength of their marks.

¹(2022) 11 SCC 578

² 2023 SCC OnLine SC 344

31. In **Saurav Yadav and others v. State of U.P. and others**³, a 3-Judge Bench of this Court affirmed the principle that candidates belonging to any of the vertical reservation categories would be entitled to be selected in the 'open category' and if such candidates belonging to reservation categories are entitled to be selected on the basis of their own merit, their selection cannot be counted against the quota reserved for the categories of vertical reservation that they belong to. It was further observed that reservations, both vertical and horizontal, are methods of ensuring representation in public services and these are not to be seen as rigid 'slots', where a candidate's merit, which otherwise entitles him to be shown in the open general category, is foreclosed. The Bench further observed that the 'open category' is open to all and the only condition for a candidate to be shown in it is merit, regardless of whether reservation benefit of either type was available to him or her.

32. This being the settled legal position, it appears that the State of Madhya Pradesh itself realized the harm that it was doing to the reservation category candidates and chose to restore Rule 4, as it stood earlier, which enabled drawing up the result of the preliminary examination by segregating deserving meritorious reservation category candidates with meritorious unreserved category candidates at the preliminary examination stage itself. As this was the process that was undertaken after the judgment in **Kishor Choudhary (supra)**, whereby a greater number of reservation category candidates cleared the preliminary examination and were held eligible to appear in the main examination, there can be no dispute with the legality and validity of such process.

33. We may also note that the judgment in **Kishor Choudhary (supra)** was not subjected to challenge before this Court after the dismissal of the review petitions. The direction therein was to conduct and complete the examination process in accordance with the unamended Rules of the 2015. It was the later judgment in **Harshit Jain (supra)** that advocated the methodology of holding a special main examination for the reservation category candidates who were found eligible after revising the preliminary examination result in keeping with the unamended Rules of 2015. This direction was found to be justified by the Division Bench, which dismissed the writ appeal by way of the impugned judgment and, in our considered opinion, rightly so.

34. On the above analysis, we find that the impugned judgment dated 25.01.2023 passed by the Division Bench of the High Court of Madhya Pradesh at Jabalpur in Writ Appeal No. 1706 of 2022 does not brook interference on any ground, be it on facts or in law.

The civil appeal arising out of SLP (C) No. 5817 of 2023 is, therefore, bereft of merit and is accordingly dismissed.

Further, as already mentioned hereinbefore, we are not inclined to entertain and consider SLP (C) Nos. 23514 and 27620 of 2023 on merits. The two SLPs are dismissed.

Pending I.A.s shall also stand dismissed.

Parties shall bear their respective costs.