

**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION**

CIVIL APPEAL NO. _____ OF 2026

(Arising out of Special Leave Petition (C) No. 4743 of 2020)

UNION OF INDIA

... APPELLANT

versus

G. KIRAN & ORS.

... RESPONDENTS

with

CIVIL APPEAL NO. _____ OF 2026

(Arising out of Special Leave Petition (C) No. 4067 of 2022)

ANTONY S MARIYAPPA

.....APPELLANT

versus

G. KIRAN & ORS.

.....RESPONDENTS

J U D G M E N T

J.K. Maheshwari J.

1. Leave granted.
2. Assailing the final judgment and order dated 06.08.2019 passed in Writ Petition No. 18947 of 2016 (S-CAT) connected with

Writ Petition No. 54254 of 2016 (S-CAT) by the High Court of Karnataka at Bengaluru (hereinafter referred to as '**High Court**'), the appellants have filed these appeals. For the sake of brevity, we will refer to the parties as per their status in Civil Appeal arising out of Special Leave Petition (C) No. 4743 of 2020.

3. The dispute in the present appeals is regarding the claim of a reserved category candidate i.e., Respondent No. 1, who availed relaxation in the Preliminary Examination but was placed higher in merit than the unreserved candidate i.e., Respondent No. 3 in the final merit list based on total marks awarded in Main Examination (Written) and Personality Test, to be treated as a General merit candidate for the purpose of cadre allocation against a General Insider vacancy for State of Karnataka in the Indian Forest Service (hereinafter referred to as '**IFS**').

4. Being aggrieved by the notification dated 13.03.2015 issued by the Ministry of Environment, Forests and Climate Change (hereinafter referred to as '**MoEFCC**'), allocating Tamil Nadu Cadre to Respondent No. 1 instead of Karnataka, Respondent No. 1

preferred an Original Application No. 170/239 of 2015 (hereinafter referred to as '**OA**') before the Central Administrative Tribunal, Bangalore Bench (hereinafter referred to as '**Tribunal**') and vide order dated 15.03.2016, the Tribunal allowed the Original Application holding that a meritorious Scheduled Caste (hereinafter referred to as '**SC**') candidate cannot be denied allocation against a General vacancy solely on the ground of availing relaxation in the SC cut-off marks at the stage of Preliminary Examination. The Tribunal directed to allocate the General Insider vacancy in the State of Karnataka to Respondent No. 1. Being aggrieved by the said order, WP No. 18947 of 2016 (S-CAT) was filed by Respondent No. 3 (who was allocated the General insider vacancy) and WP No. 54254 of 2016 (S-CAT) was filed by the Union of India (hereinafter referred to as '**UOI**'), which came to be dismissed by the common impugned order of the High Court, affirming the view of the Tribunal. Hence, the present appeals.

FACTUAL MATRIX

5. Prequel to the present litigation, the MoEFCC issued Notification No. 17011/01/2013-IFS-II dated 05.03.2013 publishing '*The Rules for a competitive examination to be held by the Union Public Service Commission in 2013*' (hereinafter referred to as '**Exam Rules, 2013**') for the purpose of filling vacancies in the Indian Forest Service.

6. Respondent No. 1, belongs to SC category and Respondent No. 3 belongs to General category. Both appeared for the Preliminary Examination in the year 2013. As per Exam Rules, 2013, the selection process for IFS involved following two tiers – (i) the Civil Services (Preliminary) Examination for purpose of screening; and (ii) the Indian Forest Service (Main) Examination followed by an Interview for personality test.

7. It is undisputed that in the Preliminary Examination, the cut-off to qualify by General Category candidates was 267 and the cut-off to qualify by SC category candidates was 233. Respondent No. 1 secured 247.18 marks, which was below the cut-off to qualify as

General category candidate, however, declared qualified for the Main Examination availing the relaxed cut-off applicable to SC candidates. Simultaneously, Respondent No. 3 secured 270.68 marks in the Preliminary Exam and qualified for the Main Examination (Written) as the said score was above the cut-off for General category. The details of the marks obtained has been tabulated for ready reference as under: –

Name of Candidate	Category (as availed for purpose of Preliminary Exam)	Qualifying Marks (for purpose of Preliminary Exam)	Marks Obtained in the Preliminary Exam
G Kiran [Respondent No. 1]	SC	233	247.18
Antony S Mariyappa [Respondent No. 3]	General/Unreserved	267	270.68

8. Both the candidates appeared in the Main Examination (Written) in October 2013 and qualified the same. They appeared in Interview for personality test in December 2013. After all the stages of exam and on the basis of marks secured by respective candidates in the Main Examination and Interview, on 29th January 2014, the Union Public Service Commission (hereinafter referred to as ‘**UPSC**’) recommended total 85 candidates for appointment as IFS.

9. In the final merit list, Respondent No. 1 was placed at rank 19 while Respondent No. 3 came to be placed at rank 37. Consequent thereto, controversy was set into motion during the allocation of cadres. For the 2013 examination, there were only two available vacancies in the State of Karnataka - one was of 'General Insider' and the other was of 'OBC Outsider'. Applying the Cadre Allocation Policy issued on 10th April 2008 later amended on 21st April 2011 (hereinafter referred to as '**Policy**'), the UOI vide notification dated 13.03.2015 (hereinafter referred to as '**impugned notification**') allocated the 'General Insider' vacancy for State of Karnataka to Respondent No. 3 being General category candidate. On the other hand, Respondent No. 1, who was also having preference for State of Karnataka, allocated the Tamil Nadu cadre, since no SC Insider post was vacant in the State of Karnataka.

10. Challenging the impugned notification, Respondent No. 1 filed the OA before the Tribunal on 26.03.2015 asking to quash the notification in so far as it relates to him and Respondent No. 3 and also sought a consequent direction to UOI and UPSC to allot him

the General Insider vacancy in the State of Karnataka with all consequential benefits. The Tribunal, by order dated 15.03.2016 allowed the OA, which was affirmed by the High Court vide impugned order dated 06.08.2019.

11. The High Court was of the view that since Respondent No. 1 had secured a higher rank in Main Examination (Written) compared to Respondent No. 3, and the Preliminary Examination was merely a screening test and marks obtained therein were not to be considered to draw the final merit, therefore, for cadre allocation, the former should be treated as General category candidate and would be entitled to get allocation of Karnataka cadre in General Insider vacancy. Assailing these findings, present appeals have been preferred by UOI and Respondent No. 3.

ARGUMENTS OF APPELLANT AND RESPONDENTS

12. Mr. K.M. Nataraj, learned Senior Counsel and Additional Solicitor General of India, with vehemence submitted that the allocation of cadre is governed by the Exam Rules, 2013 and the

Policy. Rule 14 of the Exam Rules, 2013 specifically bars the adjustment of reserved category candidates against unreserved vacancies if they have availed relaxation at any stage in eligibility or selection criteria. He put forth emphasis to phrase 'any stage of the examination' and argued that Respondent No. 1 could not secure marks above cut-off for General category in the Preliminary Examination. He had appeared in Main Examination after getting benefit of relaxed standard in SC category, therefore, having availed a relaxation in Preliminary Examination, Respondent No. 1 cannot be a candidate selected on "General Standards" required under Paragraph 9 of the Policy read with Rule 14 of the Exam Rules, 2013. To buttress such contentions, reliance has been placed on the judgments of this Court in ***Deepa E.V. v. Union of India and Ors.***¹, ***Gaurav Pradhan v. State of Rajasthan***², ***Niravkumar Dilipbhai Makwana v. Gujarat Public Service Commission***³, ***Union of India v. Sajib Roy***⁴.

1 (2017) 12 SCC 680

2 (2018) 11 SCC 352

3 (2019) 7 SCC 383

4 (2025) SCC OnLine SC 1943

13. Learned Counsel Mr. Vardhman Kaushik, representing the UPSC has supported the submissions made by the Learned Additional Solicitor General of India. Similarly, Learned Senior Counsel, Mr. Nikhil Goel, appearing for the Respondent No. 3, and the Appellant in the connected appeal, has also supported the said contentions and urged that once the benefit of relaxation has been obtained by Respondent No. 1 in the Preliminary Examination, he cannot claim 'General Insider' vacancy at a later stage at the time of cadre allocation, therefore, the decisions of the Tribunal and High Court are liable to be set-aside.

14. *Per contra*, Learned Senior Counsel Mr. Jayanth Muth Raj appearing for Respondent No. 1 submits that the Preliminary Examination is merely a screening test to shortlist candidates for the Main Examination. Clause 2 of Section I of Appendix I to the Exam Rules, 2013 clearly stipulates that the marks obtained in the Preliminary Examination by the candidates will not be counted for determining the final order of merit. As such the marks obtained by Respondent No. 1 in Preliminary Examination, taking benefit of

relaxed standards applicable to SC Candidate cannot be used adversely for the purpose of cadre allocation to him.

15. It is urged, once a candidate performs on merit, surpasses the 'General Standards' and qualifies the Main Examination, securing a higher rank than Respondent No. 3 i.e. General category candidate in the final list, the grant of initial relaxation in Preliminary Examination fades into insignificance. It is said that denial of the General Insider vacancy to a more meritorious candidate on the pretext of relaxation availed in the Preliminary Examination which doesn't even form the basis of final merit list, violates the principles of meritocracy and substantive equality as enshrined under Articles 14 and 16 of the Constitution of India.

16. Learned Senior Counsel placed reliance upon the reasoning of the High Court that the term 'General Standards' in Paragraph 9 of the Policy refers to the 'General Qualifying Standard' as contained in Rule 14(i) of Exam Rules, which Respondent No. 1 undisputedly met and surpassed. In support of these contentions, judgements of

this court in ***Jitendra Kumar Singh v. State of UP***⁵, ***Ajithkumar P. v. Remin K. R.***⁶ and ***Vikas Sankhala and Others v. Vikas Kumar Agarwal and Others***⁷ has been relied upon and prayed for dismissal of these appeals.

APPRECIATION OF ARGUMENTS

17. After having heard learned counsels and upon perusal of the material placed, in our view, the question that falls for our consideration is *whether a reserved category candidate who availed relaxation while qualifying Preliminary Examination, though secured more marks than cut-off of the General Category candidate in the Main Examination and Interview for personality test and secured place in the final merit list, can be considered as 'Insider General' candidate for cadre allocation against an unreserved vacancy?*

18. In order to adjudicate upon the issue, it is pertinent to refer to the relevant provisions of Rules, 1, 13, 14 and 17 of the Exam Rules, 2013 which are reproduced as hereunder -

⁵ (2010) 3 SCC 119

⁶ (2015) 16 SCC 778

⁷ (2017) 1 SCC 350

“Rule 1. Indian Forest Service Examination will be a two tier (*sic*) examination – a preliminary screening examination followed by a Main Examination and Interviews. For screening suitable number of candidates for the 2nd stage of the Examination to be named as Indian Forest Service (Main) Examination, all candidates would be required to qualify Civil Services (Preliminary) Examination (hereinafter called the Preliminary Examination).

xxx

xxx

xxx

Rule 13. Candidates who obtain such minimum qualifying marks in the Preliminary Examination as may be fixed by the Commission at their discretion shall be admitted to the Indian Forest Service (Main) Examination (Written); and candidates who obtain such minimum qualifying marks in the Main Examination (Written) as may be fixed by the Commission at their discretion shall be summoned by them for an interview for a personality test;

The minimum qualifying marks as determined above, may be relaxable at the discretion of the Commission, in favour of Physically Handicapped candidates, in order to fill up the vacancies reserved for them, if any.

Provided that candidates belonging to the Scheduled Castes or Scheduled Tribes or Other Backward Classes may be summoned for an interview for personality test by the commission by applying relaxed standards in the Preliminary Examination as well as Main Examination (Written) if the Commission is of the opinion that sufficient number of candidates from these communities are not likely to be summoned for interview for a personality test on the basis of the general standard in order to fill up vacancies reserved for them.

xxx

xxx

xxx

Rule 14. (i) After interview, the candidates will be arranged by the Commission in the order of merit as disclosed by aggregate marks finally awarded to each candidate in the Main Examination.

Thereafter, the commission shall, for the purpose of recommending candidates against unreserved vacancies, fix a qualifying mark (hereinafter referred to as general qualifying standard) with reference to the number of unreserved vacancies to be filled up on the basis of the Main Examination.

(ii) The candidates belonging to any of the Scheduled Castes, the Scheduled Tribes or Other Backward Classes may to the extent of the number of vacancies reserved for the Scheduled Castes, the Scheduled Tribes and the Other Backward Classes be recommended by the Commission by a relaxed standard, subject to the fitness of these candidates for selection to the Service.

Provided that the candidates belonging to the Scheduled Castes, the Scheduled Tribes and the Other Backward Classes who have been recommended by the Commission without resorting to any relaxations/concessions in the eligibility or selection criteria, at any stage of the examination, shall not be adjusted against the vacancies reserved for the Scheduled Castes, the Scheduled Tribes and Other Backward Classes.

xxx

xxx

xxx

Rule 17. (i) A candidate who qualifies the Preliminary Examination shall be required to indicate the Detailed Application Form his/her choice in the order of preference from amongst the various State Cadres including his/her 'Home State' in case he/she is appointed to the Indian Forest Service.

(ii) the cadre allotment to candidates appointed to Indian Forest Service will be governed by the policy of cadre allotment in force at the time of allotment of cadre. Due consideration will be given at the time of making allocation on the results of the examination to the preferences expressed by candidate for various cadres at the time of his/her application."

19. After going through Rule 1, it is evident that IFS examination consists of two tiers - tier one is of Preliminary Examination and tier two consists of Main Examination (Written) and Interview. For screening suitable number of candidates for the 2nd stage i.e., Indian Forest Service (Main) Examination, all candidates are required to qualify the Preliminary Examination.

20. Perusal of Rule 13 makes it abundantly clear that after obtaining minimum qualifying marks in Preliminary Examination, the candidate, shall be entitled to appear in the Main Examination (Written). The candidate obtaining minimum qualifying marks in Main Examination may be summoned for Interview for personality test. The determination of the minimum qualifying marks to summon a candidate for an Interview for personality test shall be the discretion of the UPSC. The proviso confers discretion upon UPSC for applying the 'Relaxed Standards' to the candidates belonging to the SC, ST and OBC either in Preliminary or Main Examination (Written) in case sufficient member of these

communities are not likely to be summoned applying the 'General Standard' to fill up the vacancies reserved for these categories.

21. As per Rule 14, the candidates who obtain qualifying marks in Main Examination (Written) and are summoned for Interview for personality test shall be arranged in the order of merit as disclosed by the UPSC on the basis of the aggregate of marks scored in Main Examination (Written). After preparation of merit list, the UPSC shall fix qualifying marks for applying 'General Qualifying Standards' for recommending the candidate commensurate to the available unreserved vacancies, to be filled up on the basis of the Main Examination. In this view, Rule 14(i) operates in two parts. First portion deals with preparation of merit list and latter portion deals with preparation of merit list of unreserved category applying the general qualifying standards. Rule 14(ii) applies to the candidates belonging to the SC, ST and OBC to which the UPSC shall make recommendation on basis of 'Relaxed Standard' subject to the fitness of these candidates for selection to the service. The consequence of availing the 'Relaxed Standard' is stipulated in the

proviso to Rule 14(ii), whereby it is clear that if a candidate has found place in the merit list without availing 'Relaxed Standards' i.e., without resorting to 'any' 'relaxations' or 'concessions' in eligibility or selection criteria 'at any stage of examination', they shall not be adjusted against the vacancies reserved for SC, ST and OBC.

22. In the above context, the word '*any*' is relatable to relaxations or concessions either in '*eligibility*' or any '*selection criteria*'. It further qualifies that such relaxation/concession can be availed at 'any stage of examination' having relevance to Rule 1 which indicates that all candidates would be required to qualify the Preliminary Examination in order to appear in the Main Examination. Therefore, the proviso throw light by focusing on the issue of relaxations and concessions in eligibility or selection criteria at any stage of examination. At this stage, the point to ponder upon is if a candidate obtains such relaxation or concession in '*eligibility*' or '*selection criteria*' what would be its effect in the

matter of cadre allocation, especially in the facts and circumstances of the case in hand.

23. As per Rule 17 of Exam Rules, 2013, indeed it is correct to say that only after qualifying the Preliminary Examination the candidate does have a choice to submit the preference for various state cadres including home state for appointment to the IFS. It is further true that the State Cadre allotment to the IFS will be governed by the policy in force at the time of allotment of cadre. In the said context the policy dated 10th April 2008 amended on 21st April 2011 governing the cadre allocation of the relevant time assumes significance. Para 9 of the Policy is relevant, therefore, reproduced as thus: -

“9. Notwithstanding what has been said above a reserved category candidate selected on general standards shall be eligible for allocation against the available un-reserved vacancy as per his merit and preference. But if he cannot be allocated against such vacancy, for he is lower in rank compared with other general category candidates, he shall be considered for allocation as per his merit and preference against the available vacancy of his category.”

24. Upon conjoint reading of the Rules quoted above in juxtaposition to Clause 9 of the Policy, it is clear that a reserved category candidate selected applying 'General Standard' has eligibility for allocation on unreserved vacancy as per his merit and preference if he is not lower in rank from other General category candidates, otherwise he shall be considered for allocation as per his merit and preference against the available vacancy of his category. In the said context, it is clear that for allocation of unreserved vacancy to a candidate of reserved category, the selection must be on 'General Standard' without availing any 'Relaxed Standard' in either eligibility or selection criteria. In case any 'Relaxed Standard' has been availed by him, his allocation of cadre would be as per his merit and preference against vacancy of his category.

25. After analyzing the Exam Rules, 2013 and the Policy, we find ourselves at variance with the findings recorded in the Impugned Order. While dismissing the Writ Petition and affirming the order of the Tribunal, the thrust of reasoning of the High Court was that

‘General Standards’ as used in Paragraph 9 of Policy can only mean to be ‘General Qualifying Standard’ as appearing in Rule 14(i) of Exam Rules, 2013 i.e. qualifying marks fixed by UPSC with reference to number of unreserved vacancies to be filled up on the basis of the Main Examination. In other words, the High Court effectively read Paragraph 9 of the Policy to mean that if a reserved category candidate selected acquiring the position in the merit of unreserved category list obtaining ‘qualifying marks fixed by UPSC with reference to number of unreserved vacancies on the basis of the Main Examination’ shall be eligible for allocation against available unreserved vacancies. It was also observed that the purpose behind providing relaxation in the nature of age, number of attempts, payment of fees and such other eligibility criteria in favour of candidates belonging to reserved category is to ensure a level playing field and that real merit is tested in the Main Examination (Written) where the mettle of the candidates is put to test. Hence, if the candidates belonging to the reserved category score better than a general merit candidate in the tier two examination, such

candidate cannot be denied cadre allocation in open category insider cadre vacancy.

26. We are unable to subscribe to and confirm the view taken by the High Court. In our view, the High Court lost sight of the mandate of Rule 1 which clearly prescribes that IFS Examination consists of two tiers - first tier is Preliminary Examination followed by tier two involving Main Exam (Written) and Interview. Only those candidates who are found suitable in the first tier may avail entry for the tier two. All the candidates are required to qualify Preliminary Examination for participation in further selection process by way of Main Examination (Written) and Interview. Rule 13 and its proviso contemplate that only those candidates who obtain minimum qualifying marks as prescribed on discretion by UPSC in the Preliminary Examination shall be admitted to the Main Examination (Written) and all those candidates who obtain minimum qualifying marks as prescribed by UPSC in the Main Examination (Written) shall be called upon for an Interview for a personality test. The proviso to the said rule provides for applying

relaxed standards in Preliminary as well as the Main Examination (Written) to SC, ST and OBC candidates for the purpose of summoning them for interview if such candidate does not come within the general standards in order to fill up the vacancies of reserved category and to facilitate due representation.

27. Further, Rule 14(i) deals with preparation of merit list after a written and interview for personality test. Thereafter, it deals with recommending the candidates against unreserved vacancies applying general standards with reference to number of unreserved vacancies. Rule 14(ii) deals with the situation for the candidates of SC, ST and OBC where discretion has been conferred upon UPSC to grant relaxed standards to the fittest of these candidates for selection to the service. While dealing with those relaxed standards, it has been made clear in proviso that the candidates of SC, ST and OBC recommended without resorting to 'any', 'relaxation' or 'concession' in 'eligibility' or 'selection criteria' at 'any stage of examination' may be adjusted against the vacancies of unreserved category. The natural corollary to the above makes it

clear those reserved category candidates who have availed of *any relaxation or concession* at '*any stage of the examination*' are not eligible to be adjusted against unreserved vacancies.

28. On appreciation of the rules referred above, it is clear that any relaxation or concession in eligibility or in selection criteria, if taken at any stage of examination by such candidate of SC, ST and OBC, they may not get any benefit to claim the vacancy of unreserved category, in particular, in the context of Rule 17(1) of the Exam Rule, 2013 seeking allocation of General Insider vacancy in home State cadre as it would be contrary to paragraph 9 of the Policy.

29. It is relevant to emphasis that Rule 1 clearly stipulates that IFS examination involves two tiers. Without qualifying first tier i.e., Preliminary Examination, a candidate may not be in a position to participate in Main Examination (Written). Therefore, even though the Preliminary Examination is merely a screening test and marks obtained may not be counted for determining final merit as per Clause 2 of Section I of Appendix-I of Exam Rules, 2013, nonetheless, it is an integral stage of the examination and

relaxation availed by any candidate even at the stage of Preliminary Examination cannot escape the phraseology of proviso to Rule 14(ii) i.e., 'relaxed standard' granted at 'any stage of examination'.

30. At this juncture, we can profitably refer to the judgment of this Court in **Deepa E.V.** (Supra). In the said case, the appellant, who was an OBC category candidate, sought appointment on general unreserved vacancy on the ground that the marks obtained by her was over and above the minimum cut-off marks prescribed for general category candidates. While considering a similar provisions as per O.M. of Department of Personnel and Training dated 01.07.1998, it was held that when a candidate avails age relaxation, he is not entitled to be adjusted against the unreserved category. The relevant paragraph is reproduced as thus –

“7. On a combined reading of Rule 9 of the Export Inspection Agency (Recruitment) Rules, 1980 and also the proceedings dated 1-7-1998, we find that there is an express bar for the candidates belonging to SC/ST/OBC who have availed relaxation for being considered for general category candidates.”

The logic applied in above case applies with equal force to relaxation in qualifying marks at the preliminary stage as it has happened in the present appeals.

31. We also find merit in the reliance placed by the Appellant on the decision in **Gaurav Pradhan** (Supra). In that case, the post in question was of Police Constables and Sub-Inspectors of Police and the recruitment process was of the year 2010. Vide an earlier circular dated 24.06.2008, it was provided that the members of SC/ST/OBC can compete against non-reserved vacancies and be counted against them, in case they have not taken any concession (like that of age, etc.) available to them other than that relating to payment of examination fees in case of direct recruitment. Thereafter, vide a circular dated 11.05.2011, without superseding earlier circular of 2008, it was provided that if a candidate belonging to BC/SBC/SC/ST, irrespective of whether they have availed of or not any of the special concession which are available to them, secures more marks than the marks obtained by last unreserved category candidate who is selected, such a candidate belonging to

aforementioned categories shall be counted against unreserved category vacancies and not reserved vacancies. On filing writ petitions before High Court by various general category candidates, the learned Single Judge dismissed the same which came to be confirmed with certain modifications by the Division Bench. While allowing the appeals, this Court observed thus:

“33. In a recent judgment, this Court has occasion to consider the judgment of this Court in *Jitendra Kumar Singh case* [*Jitendra Kumar Singh v. State of U.P.*, (2010) 3 SCC 119 : (2010) 1 SCC (L&S) 772] . The learned counsel for the appellants has placed much reliance on the judgment of this Court dated 6-4-2017 in *Deepa E.V. v. Union of India* [*Deepa E.V. v. Union of India*, (2017) 12 SCC 680 : (2018) 1 SCC (L&S) 100] . It is necessary to notice the facts of the case and the issues decided by this Court in *Deepa E.V.* [*Deepa E.V. v. Union of India*, (2017) 12 SCC 680 : (2018) 1 SCC (L&S) 100] The appellant before this Court was an OBC category candidate who claimed that she should be treated as general category candidate. The appellant had availed the age relaxation as OBC category candidate. A writ petition was filed by the appellant claiming that she should be treated as candidate in general category. The learned Single Judge dismissed the writ petition by the judgment dated 16-1-2015 [*Deepa E.V. v. Union of India*, 2015 SCC OnLine Ker 2470] which judgment was affirmed [*Deepa E.V. v. Union of India*, 2015 SCC OnLine Ker 21264] by the Division Bench in the writ appeal. In para 2 of the judgment, facts were noted to the following effect: (*Deepa E.V. case* [*Deepa E.V. v. Union of India*, (2017) 12 SCC 680 : (2018) 1 SCC (L&S) 100] , SCC p. 681)

“2. The appellant applied for the post of Laboratory Assistant Grade II in Export Inspection Council of India functioning under the Ministry of

Commerce and Industry, Government of India. The appellant belongs to Dheevara community which is one of the “Other Backward Class”. Since the appellant was aged 26 years, she got age relaxation, as was granted to OBC category candidates. The appellant was one of the eleven candidates from OBC who were called for interview. The appellant secured 82 marks (in the list of candidates from OBC category). One Ms Serena Joseph (OBC), who secured 93 marks was selected and appointed.”

xxx

xxx

xxx

37. The judgment of this Court in *Deepa E.V.* [*Deepa E.V. v. Union of India*, (2017) 12 SCC 680 : (2018) 1 SCC (L&S) 100] fully supports the case of the appellants. In *Deepa E.V. case* [*Deepa E.V. v. Union of India*, (2017) 12 SCC 680 : (2018) 1 SCC (L&S) 100] also the Circular of the Central Government dated 1-7-1998/2-7-1997 provided the relevant provision which is to the following effect: (SCC pp. 682-83, para 6)

“6. ... ‘... In other words, when a relaxed standard is applied in selecting SC/ST/OBC candidates, for example in the age-limit, experience, qualification, permitted number of chances in written examination, extended zone of consideration larger than what is provided for general category candidates, etc., the SC/ST/OBC candidates are to be counted against reserved vacancies. Such candidates would be deemed as unavailable for consideration against unreserved vacancies.’ ”

(emphasis in original)

xxx

xxx

xxx

46. The Division Bench [*Rajesh Singh v. State of Rajasthan*, 2014 SCC OnLine Raj 6470 : (2014) 2 RLW 1585] as well as the learned counsel appearing for the State of Rajasthan has relied on the Circular dated 11-5-2011. The Division Bench has observed that the Circular dated 11-5-2011 did not change the rules of game. The following observation has been made with regard to the Circular dated 11-5-2011: (*Rajesh Singh case* [*Rajesh Singh v. State of Rajasthan*, 2014 SCC OnLine Raj 6470 : (2014) 2 RLW 1585] , SCC OnLine Raj para 57)

“57. In the instant case, the State Government in supersession of its earlier policy decision regarding treatment to be given to the candidates belonging to reserved category who are selected against unreserved category vacancies, issued directives for guidance to the appointing

authorities vide the Circular dated 11-5-2011 that neither changed the eligibility criteria seeking employment nor manner and method of selection of suitable candidates and in our considered view, the Circular dated 11-5-2011 did not change rules of the game after the game is played or process of selection is initiated as observed by the learned Single Judge [*Madan Lal v. State of Rajasthan*, 2012 SCC OnLine Raj 1182] · [*Manish Sharma v. State of Rajasthan*, 2013 SCC OnLine Raj 4100] but such policy decisions are always within realm of judicial review and this is what the Court considered and examined policy decision of the Government impugned.”

xxx

xxx

xxx

49. In view of the foregoing discussion, we are of the considered opinion that the candidates belonging to SC/ST/BC, who had taken relaxation of age, were not entitled to be migrated to the unreserved vacancies; the State of Rajasthan has migrated such candidates who have taken concession of age against the unreserved vacancies which resulted displacement of a large number of candidates who were entitled to be selected against the unreserved category vacancies. The candidates belonging to unreserved category who could not be appointed due to migration of candidates belonging to SC/ST/BC were clearly entitled for appointment which was denied to them on the basis of the above illegal interpretation put by the State. We, however, also take notice of the fact that the reserved category candidates who had taken benefit of age relaxation and were migrated on the unreserved category candidates, are working for more than last five years. The reserved category candidates who were appointed on migration against unreserved vacancies are not at fault in any manner. Hence, we are of the opinion that SC/ST/BC candidates who have been so migrated in reserved vacancies and appointed, should not be displaced and allowed to continue in respective posts. On the other hand, the unreserved candidates who could not be appointed due to the above illegal migration are also entitled for appointment as per their merit. The equities have to be adjusted by this Court.”

(emphasis supplied)

In the said case, this Court while affirming the view taken in **Deepa E.V.** (Supra), held that reserved category candidates who had availed corresponding relaxations, could not be considered on general/unreserved vacancies.

32. Similarly, this court in **Niravkumar Dilipbhai** (Supra) while considering an identical factual situation involving a circular barring consideration of reserved category candidates on unreserved posts observed as under –

“**22.** Article 16(4) of the Constitution is an enabling provision empowering the State to make any provision or reservation of appointments or posts in favour of any backward class of citizens which in the opinion of the State is not adequately represented in the service under the State. It is purely a matter of discretion of the State Government to formulate a policy for concession, exemption, preference or relaxation either conditionally or unconditionally in favour of the backward classes of citizens. The reservation being the enabling provision, the manner and the extent to which reservation is provided has to be spelled out from the orders issued by the Government from time to time.

xxx

xxx

xxx

23. In the instant case, the State Government has framed policy for the grant of reservation in favour of SC/ST and OBC by the Circulars dated 21-1-2000 and 23-7-2004. The State Government has clarified that when a relaxed standard is applied in selecting a candidate for SC/ST, SEBC category in the age-limit, experience, qualification, permitting number of

chances in the written examination, etc., then candidate of such category selected in the said manner, shall have to be considered only against his/her reserved post. Such a candidate would be deemed as unavailable for consideration against unreserved post.

xxx

xxx

xxx

34. There is also no merit in the submission of the learned counsel for the appellant that relaxation in age at the initial qualifying stage would not fall foul of the Circulars dated 29-1-2000 and 23-7-2004. The distinction sought to be drawn between the preliminary and final examination is totally misconceived. It is evident from the advertisement that a person who avails of an age relaxation at the initial stage will necessarily avail of the same relaxation even at the final stage. We are of the view that the age relaxation granted to the candidates belonging to SC/ST and SEBC category in the instant case is an incident of reservation under Article 16(4) of the Constitution of India."

(emphasis supplied)

The Court affirming the proposition of law stated that once relaxation has been taken by a reserved category candidate, they cannot be considered for unreserved vacancies. Inescapably, the aforesaid judgement also strengthens the view taken by us hereinabove interpreting the rules that if a reserved category candidate takes benefit of relaxation though at initial stage, it will effectively amount to taking relaxation even at the final stage of the selection process because without giving relaxation to him, he was

not in a position to participate in the Main examination and to set forth his claim of cadre allocation.

33. Very recently in **Sajib Roy** (Supra), this court had the occasion to deal with a similar factual matrix as observed hereunder–

“**32.** On an analysis of the aforecited cases, we summarise as follows: Whether a reserved candidate who has availed relaxation in fees/upper age limit to participate in open competition with general candidates may be recruited against unreserved seats would depend on the facts of each case. That is to say, in the event there is no embargo in the recruitment rules/employment notification, such reserved candidates who have scored higher than the last selected unreserved candidate shall be entitled to migrate and be recruited against unreserved seats. However, if an embargo is imposed under relevant recruitment rules, such reserved candidates shall not be permitted to migrate to general category seats.

xxx

xxx

xxx

33. Accordingly, we hold as the respondents-writ petitioners had availed concession of age for participating in the recruitment process, in the teeth of office memorandum dated 01.07.1998, the High Court was wrong in applying the ratio in Jitendra Kumar (supra) and permitting them to be considered for appointment in the unreserved category. Consequently, we set aside the common impugned judgment and order dated 12.10.2018 and order dated 26.02.2019 and allow the appeals. Pending application(s) if any, stand disposed of.”

34. At this stage, pertinently the judgements relied upon by the learned senior counsel for Respondent No. 1 in their support are necessarily required to be appreciated. In ***Jitendra Kumar Singh*** (Supra), this court while considering whether an OBC candidate who applied exercising his option as a reserved category candidate, would be eligible to be considered against an unreserved vacancy, if he secures more marks than the last candidate in general category. Nonetheless, in the said case, this court was considering the issue in reference to instructions issued by the State of Uttar Pradesh dated 25.03.1994 which specifically provided for migration of reserved category candidates to unreserved vacancies despite they having availed any facility or relaxation (like relaxation in age limit) available to reserved category. Therefore, it is distinguishable on facts of the present appeals.

35. In ***Ajithkumar P.*** (Supra), this Court was considering a factual situation wherein the reserved category candidate had availed relaxation in the preliminary examination, however, found that the said Preliminary Examination was not having any statutory

basis. Therefore, this judgement is also distinguishable on facts and will not come to rescue to the case of Respondent No. 1. As far as **Vikas Sankhala** (Supra) is concerned, it involved recruitment to the post of teachers whereby relaxation in minimum pass marks in Teachers Eligibility Test to reserved category candidates was granted by state government in following manner –

- a. 10% to persons belonging to SC/ST/OBC/SBC/General-Women
- b. 15% to all women of SC/ST/OBC/SBC and widowed /divorced women
- c. 20% to persons covered under PwD

Various candidates belonging to general category candidates came before this Court in Appeal on the ground that minimum qualifying marks with respect to TET was 60% and any relaxation thereto meant availing relaxation pursuant to reservation and thus, migration of such candidates who took benefit of above indicated relaxations to the unreserved/general vacancies was impermissible. The said appeals were allowed with following observations –

“**80.** Having regard to the respective submissions noted above, first aspect that needs consideration is as to whether

relaxation in TET pass marks would amount to concession in the recruitment process. The High Court has held to be so on the premise that Para 9(a) dealing with such relaxation in TET marks forms part of the document which relates to the recruitment procedure. It is difficult to accept this rationale or analogy. Passing of TET examination is a condition of eligibility for appointment as a teacher. It is a necessary qualification without which a candidate is not eligible to be considered for appointment. This was clearly mentioned in the Guidelines/Notification dated 11-2-2011. These Guidelines pertain to conducting of TET; basic features whereof have already been pointed out above. Even Para 9 which provides for concessions that can be given to certain reserved categories deals with “qualifying marks” that is to be obtained in TET examination. Thus, a person who passes TET examination becomes eligible to participate in the selection process as and when such selection process for filling up of the posts of primary teachers is to be undertaken by the State. On the other hand, when it comes to recruitment of teachers, the method for appointment of teachers is altogether different. Here, merit list of successful candidates is to be prepared on the basis of marks obtained under different heads. One of the heads is “marks in TET”. So far as this head is concerned, 20% of the marks obtained in TET are to be assigned to each candidate. Therefore, those reserved category candidates who secured lesser marks in TET would naturally get less marks under this head. We would like to demonstrate it with an example: Suppose a reserved category candidate obtains 53 marks in TET, he is treated as having qualified TET. However, when he is considered for selection to the post of primary teacher, in respect of allocation of marks he will get 20% marks for TET. As against him, a general candidate who secures 70 marks in TET shall be awarded 14 marks in recruitment process. Thus, on the basis of TET marks reserved category candidate has not got any advantage while considering his candidature for the post. On the contrary, “level-playing field” is maintained whereby a person securing

higher marks in TET, whether belonging to general category or reserved category, is allocated higher marks in respect of 20% of TET marks. Thus, in recruitment process no weightage or concession is given and allocation of 20% of TET marks is applied across the board. Therefore, the High Court is not correct in observing that concession was given in the recruitment process on the basis of relaxation in TET."
(emphasis supplied)

Therefore, it is clear that the relaxations in TET marks were not considered to be a concession. For this reason, the said judgement is also distinguishable.

36. In the facts of the present case, the General category cut-off for the Preliminary Examination was fixed at 267. Respondent No. 1 secured 247.18 marks. Had the Respondent No. 1 been put against the general standard, his candidature would have been terminated at the first stage i.e., the Preliminary Examination. His candidature succeeded in the first stage of the examination because of the relaxed standards allowed in the Preliminary Examination for SC candidates i.e. 233 marks. After availing the benefit of this relaxation for admission to the Main Examination, Respondent No. 1 cannot subsequently claim to have been selected on "General Standard" merely due to his performance in the subsequent stages

surpassed the general standard. Therefore, if a candidate who has resorted a relaxation at any stage of examination, would not fall within the purview of the proviso to Rule 14(ii) of the Exam Rules, 2013 and in that situation, for the purpose of the applicable Policy for cadre allocation, he would not fall within the list of candidates selected on 'General Standard' claiming General Insider vacancy of home state cadre as insider candidate..

37. In light of the above exposition of law, we are of the opinion that in the present fact situation, the 'General Insider' vacancy in Karnataka was rightfully allocated to Respondent No. 3, who qualified the Preliminary Examination, Main Examination, and Interview on general standard. It is needless to say, Respondent No. 1, having qualified the Preliminary Examination availing 'relaxed standard', becoming eligible for the Main Examination must be considered against the reserved vacancies only and cannot be considered on general/unreserved vacancies for the purpose of cadre allocation.

38. In our view, the High Court while affirming the judgment of the Tribunal has glossed over Rule 1, intent of Rule 13 and intent of proviso to Rule 13 as well as the real meaning of Rule 14 and proviso thereto along with paragraph 9 of Policy. Therefore, the judgments of the Tribunal and the High Court deserve to be set aside.

CONCLUSION

39. In view of the foregoing, we hold that the Tribunal and the High Court were not correct in interpreting the relevant provisions of Exam Rules, 2013 and Paragraph 9 of the Policy and committed mistake in granting the relief to Respondent No. 1. We hold that Respondent No. 1, having availed the benefit of “Relaxed Standard” in the Preliminary Examination, cannot be treated as a candidate selected on "General Standard". Consequently, he is not entitled to be allocated against the "General Insider" vacancy in the Karnataka Cadre in place of Respondent No.3.

40. Accordingly, the appeals are allowed. The impugned final judgment and order dated 06.08.2019 passed by the High Court of

Karnataka at Bengaluru in Writ Petition No. 54254 of 2016 (S-CAT) connected with Writ Petition No. 18947 of 2016 (S-CAT), affirming the order of the Central Administrative Tribunal, Bangalore Bench dated 15.03.2016 in O.A. No. 170/00239/2015, are hereby set aside. The notification dated 13.03.2015 issued by the MoEFCC insofar allocating the Karnataka Cadre to Respondent No. 3 and Tamil Nadu Cadre to Respondent No. 1 is upheld as correct in eyes of law and without any alteration.

41. Pending application(s), if any, shall stand disposed of. There shall be no order as to costs.

.....**J.**
(J.K. MAHESHWARI)

.....**J.**
(VIJAY BISHNOI)

New Delhi;
January 6, 2026.