



**HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR**

(1) D.B. Review Petition (Writ) No. 180/2019

In

D.B. Special Appeal (Writ) No.1390/2018

Rajasthan Public Service Commission, Through Its Secretary,
Jaipur Road, Ajmer.

----Review/Petitioner-Appellant/Respondent

Versus

1. Dr. Megha Sharma D/o Shri S.D. Sharma, Aged About 33 Years, Resident Of C-7, Newlight Colony, Behind Kamal And Company, Tonk Road, Jaipur.
2. Dr. Bhawna D/o Shri Vishnu Chand, Aged About 41 Years, Resident Of Flat No. 204, Inika Residency, Civil Lines, Nayapura Kota.
Respondents/Petitioners
3. State Of Rajasthan, Through Principal Secretary, Department Of Medical And Health, Government Of Rajasthan, Secretariat, Jaipur.
4. Dr. Devendra Kumar Beniwal S/o Shri M.L. Kumawat, R/o Not Known Through Secretary, Rajasthan Public Service Commission, Ajmer (Having Roll No. 115089)
5. Dr. Khushbu Meena D/o Shri Ram Niwas Meena, R/o Not Known Through Secretary, Rajasthan Public Service Commission, Ajmer (Having Roll No. 115107)
6. Dr. Saroj Mourya, R/o Not Known Through Secretary, Rajasthan, Rajasthan Public Service Commission, Ajmer (Having Roll No.115293)
7. Sunita Lamba, R/o Not Known Through Secretary, Rajasthan Public Service Commission, Ajmer (Having Roll No.115310)
8. Neha Seehra, R/o Not Known Through Secretary, Rajasthan Public Service Commission, Ajmer (Having Roll No.115334)
9. Vimla Kumari, R/o Not Known Through Secretary, Rajasthan Public Service Commission, Ajmer (Having Roll No.115214)
10. Manju Saini, R/o Not Known Through Secretary, Rajasthan



Public Service Commission, Ajmer (Having Roll No.115076)

----Performa/Respondents

Connected With

(2) D.B. Review Petition (Writ) No. 143/2019

In

D.B. Special Appeal (Writ) No.1564/2018

1. Dr. Richa Choudhary D/o Kani Ram Choudhary, Aged About 33 Years, R/o B-108, Tulsi Marg, Hanuman Nagar, Jaipur (Raj.) (Having Roll No.117207)
2. Dr. Sawai Singh Lora S/o Dhanna Ram Lora, Aged About 36 Years, R/o B-50, Balaji Enclave, Murlipura Scheme, Jaipur (Raj.) (Having Roll No.117180)
3. Dr. Umesh Kumar Gurjar S/o Purshottam Singh Gurjar, Aged About 34 Years, R/o 2/6, 2Nd Floor, Heerabagh Flats, Near Narayan Singh Circle, Sawai Ram Singh Road, Jaipur (Raj.) (Having Roll No.117058)

----Review-Petitioners/Respondents

Versus

1. Dr. Nishat Ahmed D/o Shri Ahmed Ali, Aged About 36 Years, Resident Of 38-A, Khankya Nagar, New Shive Bari Road, Bikaner (Raj.)
2. Dr. Gaurav Ameta S/o Shri Madan Lal Ameta, Aged About 34 Years, Resident Of 26/655, Near Nai Bawri, Panerio Ke Madri Udaipur (Raj.)
3. Rajasthan Public Service Commission, Through Its Secretary, Jaipur Road, Ajmer (Raj.)
4. The State Of Rajasthan, Through Principal Secretary, Department Of Medical Education, Govt. Of Rajasthan, Secretariat, Jaipur (Raj.).

Respondents/Petitioners

...Respondents

5. Dr. Hari Mohan Meena S/o Not Known, Through Additional Chief Secretary, Medical And Health, Govt. Of Rajasthan, Jaipur (Having Roll No. 117004)
6. Dr. Shiv Lal Meena S/o Not Known, Through Additional Chief Secretary, Medical And Health, Govt. Of Rajasthan, Jaipur (Having Roll No. 117045)



7. Dr. Mamta Bajad D/o Not Known, Through Additional Chief Secretary, Medical And Health, Govt. Of Rajasthan, Jaipur (Having Roll No. 117230)

----Performa-Respondents

(3) D.B. Review Petition (Writ) No. 181/2019

In

D.B. Special Appeal (Writ) No.23/2019

Rajasthan Public Service Commission, Through Its Secretary, Jaipur Road, Ajmer.

----Review Petitioner/Appellant-Respondent

Versus

1. Dr. Anupama Hada D/o Narayan Singh Hada, Aged About 31 Years, R/o House No. W-Opposite Manglam Residency, New Navratan Complex, Udaipur
Respondent/Petitioner
2. State Of Rajasthan, Through Principal Secretary, Department Of Medical And Health, Government Of Rajasthan, Secretariat, Jaipur
3. Dr. Ritu Bijarniya D/o Shri Bhagirath Bijarniya, R/o C/o Dr. Shanti Lal Chopra, House No., Near Jalam Niwas, Pawta-B, Road, Jodhpur.
4. Dr. Saroj D/o Shri Jor Singh, R/o 21/278, Madhyam Marg, Marg, MLA Quarters, Mansarovar, Jaipur 302020
5. Dr. Priya Sonkhya W/o Shri Diwij Sonkhya, R/o Plot No. 251, Sector-7, Vidhyadhar Nagar, Jaipur- 302029
6. Dr. Khushboo Meena W/o Dr. Rajeev Kumar Meena, R/o House No. 74, Gate No. 2, Rajat Grah Colony, Nainwa Road, Bundi - 323001

----Proforma/Respondents

(4) D.B. Review Petition (Writ) No. 188/2019

In

D.B. Special Appeal (Writ) No.1055/2018

Rajasthan Public Service Commission Through Its Secretary, Jaipur Road, Ajmer (Rajasthan)

----Review Petitioner/Appellant/Respondent

Versus

1. Dr Chandra Kanta Sulaniya W/o Dr. Pawan Kumar Sulaniya,



Aged About 36 Years, Resident Of Plot No. 2, Saraswati Nagar, K-1, Jagatpura, Jaipur (Rajasthan) Presently Posted As Assistant Professor, (Obst. And Gyn.) At Medical College, Ajmer (Rajasthan).

Respondent/Petitioner

2. Dr. Megha Sharma D/o Shri S.D. Sharma, Aged About 33 Years, Resident Of C-7, Newlight Colony, Behind Kamal And Company, Tonk Road, Jaipur.
3. Dr. Bhawna D/o Shri Vishnu Chand, Aged About 41 Years, Resident Of Flat No. 204, Inika Residency, Civil Lines, Nayapura Kota.
4. State Of Rajasthan Through Principal Secretary, Department Of Medical And Health, Government Of Rajasthan, Secretariat, Jaipur.
5. Dr. Devendra Kumar Beniwal S/o Shri M.L. Kumawat, R/o Not Known, Through Secretary, Rajasthan Public Service Commission, Ajmer (Having Roll No. 115089)
6. Dr. Khushbu Meena D/o Shri Ram Niwas Meena, R/o Not Known, Through Secretary, Rajasthan Public Service Commission, Ajmer (Having Roll No. 115107)
7. Dr. Saroj Mourya, R/o Not Known, Through Secretary, Rajasthan Public Service Commission, Ajmer (Having Roll No. 115293)
8. Sunita Lamba, R/o Not Known, Through Secretary, Rajasthan Public Service Commission, Ajmer (Having Roll No. 115310)
9. Neha Seehra, R/o Not Known, Through Secretary, Rajasthan Public Service Commission, Ajmer (Having Roll No. 115334)
10. Vimla Kumari, R/o Not Known, Through Secretary, Rajasthan Public Service Commission, Ajmer (Having Roll No. 115214)
11. Manju Saini, R/o Not Known, Through Secretary, Rajasthan Public Service Commission, Ajmer (Having Roll No. 115076)

----Proforma/Respondents

(5) D.B. Review Petition (Writ) No. 190/2019

In

D.B. Special Appeal (Writ) No.1055/2018



1. Dr. Devendra Kumar Benwal S/o Shri M.I. Kumawat, Aged About 40 Years, Resident Of 10, Subhash Colony, Lane No.1, Kalwar Road, Jhotwara, Jaipur, Rajasthan.
2. Dr. Khushbu Meena D/o Shri Ram Niwas Meena, Aged About 34 Years, Resident Of House No.17, Gate No.2, Rajat Colony, Nariwa Road, Bundi, Rajasthan.
3. Dr. Saroj Mourya W/o Harish Mouriya, Aged About 39 Years, Resident Of Plot No.30, Ganesh Nagar, 80 Feet Road, Bhadwasia, Jodhpur, Rajasthan.
4. Neha Seehra W/o Sunil Kumar Meena, Aged About 32 Years, Resident Of 939, Salodamor, Near Karoli Fatak, Ganganagar City, Ganganagar, Rajasthan.
5. Vimla Kumari W/o Rahul Choudhary, Aged About 38 Years, Resident Of House No.155A, Shubham Farm, Tal Road, Jodhpur, Rajasthan.
6. Manju Saini W/o Krishan Kumar Saini, Aged About 35 Years, Resident Of 333, Katewa Nagar, Sodala, Jaipur, Rajasthan.

----Petitioners

Versus

1. Dr. Megha Sharma D/o Shri S.D. Sharma, Aged About 32 Years, Resident Of C-7, New Light Colony, Behind Kamal And Company, Tonk Road, Jaipur, Rajasthan.
2. Dr. Bhawna D/o Shri Vishnu Chand, Aged About 40 Years, Resident Of Flat No.204, Inika Residency, Civil Lines, Nayapura, Kota (Rajasthan).

CONTESTING RESPONDENTS
(Writ Petitioners)

3. State Government Of Rajasthan, Through Principal Secretary, Department Of Medical And Health, Govt. Of Rajasthan, Govt. Secretariat, Jaipur (Rajasthan).
4. Rajasthan Public Service Commission Through Its Secretary, Jaipur Road, Ajmer (Rajasthan).
5. Dr. Chandra Kanta Sulaniya W/o Dr. Pawan Kumar Sulaniya, Aged About 36 Years, Resident Of Plot No.2, Saraswati Nagar, K-1, Jagatpura, Jaipur (Rajasthan). Presently Posted As Assistant Professor (Obst. And Gyn.) At Medical College, Ajmer (Rajasthan).
6. Sunita Lamba Through Secretary, RPSC, Ajmer, Rajasthan (Having Roll No.115310).



----Respondents

(6) D.B. Review Petition (Writ) No. 191/2019

In

D.B. Special Appeal (Writ) No.1055/2018

1. Ramesh Chandra S/o Sultan Singh, Aged About 37 Years, Resident Of House No.79 Sec.4 Vidhyadhar Nagar, Jaipur.
2. Charusmita Agarwal W/o Kamlesh Agarwal, Aged About 35 Years, Resident Of Income Tax Colony 1st Ramnagariya Road, Jagatpura, Jaipur.
3. Garima W/o Vinod Sharma, Aged About 33 Years, Resident Of Indra Colony, Karauli, Rajasthan.
4. Suman Sharma W/o Sh. Suresh Tiwari, Aged About 40 Years, Resident Of H-21, Bhattji Ki Badi, Udaipur.
5. Anuradha Monga W/o Rahul Khanna, Aged About 37 Years, Resident Of 24, Tulsi Nagar, Heran Nagari, Udaipur.
6. Richa Gupta D/o Dr. Rambabu Gupta, Aged About 34 Years, Resident Of E-7, Bankers Colony, Murlipura, Jaipur, Rajasthan.
7. Shweta Choudhary W/o Sh. Dinesh Choudhary, Aged About 39 Years, Resident Of 3/8, Medical College Campus, Bikaner, Rajasthan.
8. Kumkum Gupta W/o Sh. Amit Gupta, Aged About 33 Years, Resident Of 6E-21, Mahaveer Nagar Extension, Kota, Rajasthan.
9. Sanjana Jourwal W/o Sh. Rajesh Kumar Meena, Aged About 33 Years, Resident Of 36, Kailashpuri, Jagatpura, Malviya Nagar, Jaipur, Rajasthan.
10. Santosh Meena W/o Mithalesh Kumar Meena, Aged About 32 Years, Resident Of Plot No.19, Gopal Vihar Sec.1, Near Police Line, Baran Road, Kota, Rajasthan.
11. Anita Sharma W/o Rohitash Kularia, Aged About 41 Years, Resident Of 2-E-209, Jnv Colony, Bikaner, Rajasthan.
12. Santosh Khokher W/o Vinod Kumar Khokher, Aged About 41 Years, Resident Of 30B Abhegarh Scheme, Kv-1, Jodhpur, Rajasthan.
13. Himanshi Gangwal D/o H.L. Gangwal, Aged About 38 Years, Resident Of 83, Mahaveer Nagar-III, Maharani Farm, Durgapura, Jaipur, Rajasthan.





14. Mamta Meena W/o Prem Kumar Meena, Aged About 36 Years, Resident Of Malviya Nagar, Jaipur, Rajasthan.
15. Preeti Kumari W/o Sh. Gopal Goyal, Aged About 35 Years, Resident Of Goyalo Ka Mohalla, Napasar Bikaner, Bikaner.
16. Alka Batar W/o Anurag Gill, Aged About 32 Years, Resident Of Flat No.17-1/202, Lic Flats, Behind HP Petrol Pump, Sec.6, Vidhyadhar Nagar, Jaipur, Rajasthan.
17. Jyoti Saini W/o Vijendra Kumar, Aged About 34 Years, Resident Of D 9/145, Chitrakoot, Sec.c Vaishali Nagar, Jaipur, Rajasthan.
18. Asmita Nayak W/o Vijay Kumar, Aged About 39 Years, Resident Of Mara B-11, Idgah Ke Samne, Bhani Nagar Gte Ke Samne, Bikaner, Rajasthan.
19. Neha Sharma W/o Kapil Dev Sharma, Aged About 33 Years, Resident Of Quarter No.5, Mahila Chikitshalaya, Jaipur, Rajasthan.
20. Suchitra W/o Jaiprakash Narayan, Aged About 36 Years, Resident Of 25 Jc Nagar, Mabarwah Road, Ajmer, Raj.
21. Dharmendra Singh Fatehpuriya S/o Sh. Rajender Singh Rathore, Aged About 41 Years, Resident Of House No.e-4, Shashtri Nagar, Ajmer, Rajasthan.
22. Dr. Aushima Vijay W/of Dr. Vishwa Sharma, Aged About 34 Years, Resident Of 284 Shashtri Nagar, Darabari, Kota, Rajasthan.

-----Petitioners

Versus

1. Dr. Megha Sharma D/o Shri S.D. Sharma, Aged about 32 years, Resident Of C-7, New Light Colony, Behind Kamal And Company, Tonk Road, Jaipur, Rajasthan.
2. Dr. Bhawna D/o Shri Vishnu Chand, Aged About 40 Years, Resident Of Flat No. 204, Inika Residency, Civil Lines, Nayapura, Kota (Rajasthan).

CONTESTING RESPONDENTS
(Writ Petitioners)

3. State Government Of Rajasthan, Through Principal Secretary, Department Of Medical And Health, Govt. Of Rajasthan, Govt. Secretariat, Jaipur (Rajasthan).
4. Rajasthan Public Service Commission, Through Its Secretary, Jaipur Road, Ajmer (Rajasthan).



5. Dr. Chandra Kanta Sulaniya W/o Dr. Pawan Kumar Sulaniya, Aged About 36 Years, Resident Of Plot No.2, Saraswati Nagar, K-1, Jagatpura, Jaipur (Rajasthan). Presently Posted As Assistant Professor (Obst. and Gyn.) At Medical College, Ajmer (Rajasthan).
6. Sunita Lamba Through Secretary, Rpsc, Ajmer, Rajasthan (Having Roll No.115310).
7. Dr. Devendra Kumar Benwal S/o Shri M.L. Kumawat, Aged About 40 Years, Resident Of 10, Subhash Colony, Lane No.1, Kalwar Road, Jhotwara, Jaipur, Rajasthan.
8. Dr. Khushbu Meena D/o Shri Ram Niwas Meena, Aged About 34 Years, Resident Of House No.17, Gate No.2, Rajat Colony, Nariwa Road, Bundi, Rajasthan.
9. Dr. Saroj Mourya W/o Harish Mouriya, Aged About 39 Years, Resident Of Plot No.30, Ganesh Nagar, 80 Feet Road, Bhadwasia, Jodhpur, Rajasthan.
10. Neha Seehra W/o Sunil Kumar Meena, Aged About 32 Years, Resident Of 939, Salodamor, Near Karoli Fatak, Ganganagar City, Ganganagar, Rajasthan.
11. Vimla Kumari W/o Rahul Choudhary, Aged About 38 Years, Resident Of House No.155A, Shubham Farm, Tal Road, Jodhpur, Rajasthan.
12. Manju Saini W/o Krishan Kumar Saini, Aged About 35 Years, Resident Of 333, Katewa Nagar, Sodala, Jaipur, Rajasthan.

----Respondents

(7) D.B. Review Petition (Writ) No. 195/2019

In

D.B. Special Appeal (Writ) No.1564 /2018

Rajasthan Public Service Commission, Through Its Secretary,
Jaipur Road, Ajmer.

----Review Petitioner/Appellant/Respondent

Versus

1. Dr. Nishat Ahmed D/o Shri Ahmed Ali, Aged About 36 Years, Resident Of 38-A, Khankya Nagar, New Shiv Bari Road, Bikaner.
2. Dr. Gaurav Ameta S/o Shri Madan Lal Ameta, Aged About 34 Years, Resident Of 26/655, Near Nai Bawri, Panerio Ke



Madri Udaipur.

Respondents/Petitioners

3. State Of Rajasthan, Through Principal Secretary, Department Of Medical Education, Government Of Rajasthan, Secretariat, Jaipur.
4. Dr. Richa Choudhary D/o Not Known, R/o Through Secretary, Rajasthan Public Service Commission, Ajmer (Having Roll No. 117207)
5. Dr. Sawai Singh Lora S/o Not Known, R/o Through Secretary, Rajasthan Public Service Commission, Ajmer (Having Roll No. 117180)
6. Dr. Hari Mohan Meena S/o Not Known, R/o through Secretary, Rajasthan Public Service Commission, Ajmer (Having Roll No.117004)
7. Dr. Umesh Kumar Gurjar S/o Not Known, R/o Through Secretary, Rajasthan Public Service Commission, Ajmer (Having Roll No. 117058)
8. Dr. Shiv Lal Meena S/o Not Known, R/o through Secretary, Rajasthan Public Service Commission, Ajmer (Having Roll No. 117045)
9. Dr. Mamta Bajad D/o Not Known, R/o through Secretary, Rajasthan Public Service Commission, Ajmer (Having Roll No. 117230)

--Proforma/Respondents

(8) D.B. Review Petition (Writ) No. 198/2019

In

D.B. Special Appeal (Writ) No.1055/2018

1. Dr. Akshi Agarwal W/o Dr. Rajesh Goyal, Aged About 40 Years, R/o 21/278, Mansarovar, Jaipur.
2. Dr. Ajay Sharma S/o Shri Mohan Lal Sharma, Aged About 39 Years, R/o J.L.N. Medical College, Ajmer
3. Dr. Nisha Sharma W/o Mahesh Upadhyay, Aged About 41 Years, R/o R.n.t. Govt. Medical College, Udaipur

----Review-Petitioners

Versus

1. Dr. Megha Sharma D/o Shri S.d. Sharma, Aged About 33 Years, Resident Of C-7, Newlight Colony, Behind Kamal And Company, Tonk Road, Jaipur



2. Dr. Bhawna D/o Shri Vishnu Chand, Aged About 41 Years, Resident Of Flat No. 204, Inika Residency, Civil Lines, Naya Pura, Kota (Rajasthan)

Contesting Respondents
(Writ petitioners)

3. State Of Rajasthan Through Principal Secretary, Department Of Medical And Health, Government Of Rajasthan, Secretariat, Jaipur.
4. Rajasthan Public Service Commission Through Its Secretary, Jaipur Road, Ajmer.
5. Dr. Devendra Kumar Beniwal S/o Shri M.L. Kumawat, R/o Not Known, Through Secretary, Rajasthan Public Service Commission, Ajmer (Having Roll No. 115089)
6. Dr. Khushbu Meena D/o Shri Ram Niwas Meena, R/o Not Known, Through Secretary, Rajasthan Public Service Commission, Ajmer (Having Roll No. 115107)
7. Dr. Saroj Mourya, R/o Not Known, Through Secretary, Rajasthan Public Service Commission, Ajmer (Having Roll No. 115293)
8. Sunita Lamba, R/o Not Known, Through Secretary, Rajasthan Public Service Commission, Ajmer (Having Roll No. 115310)
9. Neha Sehra, R/o Not Known, Through Secretary, Rajasthan Public Service Commission, Ajmer (Having Roll No. 115334)
10. Vimla Kumari, R/o Not Known, Through Secretary, Rajasthan Public Service Commission, Ajmer (Having Roll No. 115214)
11. Manju Saini, R/o Not Known, Through Secretary, Rajasthan Public Service Commission, Ajmer (Having Roll No. 115076)

Proforma/Respondents
(writ petitioners)

12. Chandra Kanta Sulaniya W/o Dr. Pawan Kumar Sulaniya, Aged About 36 Years, Resident Of Plot No. 2, Saraswati Nagar, K-1, Jagatpura Jaipur (Rajasthan) Presently Posted Assistant Professor, (Obst And Gyn) At Medical College, Ajmer (Rajasthan)

----Proforma/Respondents
(Appellant in SAW)



(9) D.B. Review Petition (Writ) No. 210/2019

In

D.B. Special Appeal (Writ) No.23/2019

1. Dr. Priya Sonkhya W/o Shri Diwij Sonkhya, Aged About 32 Years, R/o Plot No. 251, Sector 7, Vidhyadhar Nagar, Jaipur- 302029
2. Dr. Ritu Bijarniya D/o Shri Bhagirath Bijarniya, Aged About 40 Years, C/o Dr. Shanti Lal Chopra, House No., Near Jalam Niwas, Pawta-B, Road, Jodhpur, presently residing at House No. E-22/61, Doctors Quarters, Ummed Hospital, Jodhpur.
3. Dr. Saroj D/o Sh. Jor Singh, Aged About 42 Years, R/o 21/278, Madhyam Marg, MLA Quarters, Mansarovar, Jaipur 302020 presently residing at House No.E-22/9, Doctors Quarters, Ummed Hospital, Jodhpur.

----Review-Petitioners/Non-Appellants

Versus

1. Dr. Anupama Hada D/o Narayan Singh Hada, Aged About 31 Years, R/o House No.W-Opposite Mangalam Residency, New Navratan Complex, Udaipur (Rajasthan).
(writ petitioners)
Review Respondent/Contesting Respondents
2. State Government Of Rajasthan, Through Principal Secretary, Department Of Medical And Health, Govt. Of Rajasthan, Govt. Secretariat, Jaipur (Rajasthan).
3. Rajasthan Public Service Commission, Through Its Secretary, Jaipur Road, Ajmer (Rajasthan).
4. Dr. Khushboo Meena W/o Dr. Rajeev Kumar Meena, R/o House No. 74, Gate No. 2, Rajat Grah Colony, Nainwa Road, Bundi - 323001.

----Review-Respondents

For Petitioner(s) : Shri R.N. Mathur, Sr. Advocate with
Shri Shovit Jhajharia,
Shri J.M. Saxena,
Shri M.F. Baig,
Shri Vigyan Shah with Shri R.R.
Choudhary and Akshit Gupta

For Respondent(s) : Shri A.K. Bhandari, Sr. Advocate with
Shri Namu Narayan Sharma,



Shri Banwari Lal Sharma,
Shri Prakhar Gupta on behalf of Dr.
Vibhuti Bhushan Sharma, AAG,
Shri Vikram Singh Panwar on behalf of
Shri M.P. Singh

HON'BLE MR. JUSTICE SANGEET LODHA
HON'BLE MR. JUSTICE MAHENDAR KUMAR GOYAL

Judgment

Judgment Reserved on :: **13/02/2020**

Judgment Pronounced on :: **23/03/2020**

(PER HON'BLE MR. JUSTICE MAHENDAR KUMAR GOYAL)

1. The common issue involved in all these review petitions is whether the list of candidates eligible to undertake main examination on the basis of their marks obtained in the screening test, was required to be prepared permitting migration of reserved category candidates to open category on the basis of their higher marks or the procedure adopted by the RPSC in preparing it categorywise, was correct and whether the reservation has to be applied at the time of final selection only i.e. preparation of the final merit list or at every stage of the recruitment process.

2. These review petitions have been filed seeking review of the judgement dated 8.5.2019 whereby, the intra court appeals preferred against the order dated 2.8.2018 passed by the learned Single Judge allowing the writ petitions filed by the respondents herein/the unsuccessful candidates, have been partly allowed.

3. The facts in brief are that the Rajasthan Public Service Commission (for short-`the RPSC`) vide advertisement dated 16.7.2015 invited applications for 37 posts of Assistant Professor (Obst. and Gyn.). It was stipulated in the advertisement that in case of receipt of a large number of applications in comparison to



the posts advertised, the RPSC shall conduct screening test to shortlist the candidates and the marks obtained in the screening would be for the purpose of shortlisting only. The criteria of selection was marks obtained in the interview of such shortlisted candidates. The screening test was conducted on 15.3.2016 and in the result declared on 9.6.2016, total 114 candidates were declared eligible to participate in the interview. The RPSC declared the select list on 18.5.2017 on the basis of marks obtained in the interviews permitting migration. Assailing the method and manner of the recruitment process carried out by the RPSC, the writ petitions were filed by the candidates who could not make to the list of eligible candidates contending therein that the RPSC erred in preparing the list of the candidates eligible to participate in interview categorywise; whereas a general merit list of candidates as per marks obtained by them in the screening test should have been prepared. It was submitted that it resulted into calling the candidates for interview categorywise. It was further contended that if the candidates were shortlisted for interview categorywise, the same procedure should have been adopted while preparing the final select list and a candidate who was called for interview from Scheduled Caste Category, ought to have been selected against that category post only and migration could not have been permitted. The writ petitions were allowed by the learned Single Judge inter alia on the premise that either a common merit list of the candidates shortlisted for interview should have been prepared by the RPSC on the basis of marks obtained by them in the screening test or if the candidates were shortlisted categorywise, they should have been permitted to participate in the interview in their respective category only. Accordingly, the select list dated





18.5.2017 was quashed and the RPSC was directed to re-frame the select list.

4. The D.B. Special Appeals preferred thereagainst came to be partly allowed and the division bench directed the RPSC to call all the candidates who were declared successful in the screening process; for interview, together and not categorywise; to prepare a combined merit list and to work out the respective merit giving due weightage to the rule of migration.

5. Assailing the impugned judgement passed by the division bench, it was contended by the learned counsels for the review petitioners that the judgement dated 8.5.2019 suffers from the error apparent on the face of record inasmuch as the division bench has proceeded under the belief as if the RPSC has subjected the candidates shortlisted to interview categorywise. Drawing attention of this Court to the list of candidates shortlisted and the list of candidates subjected to interview, it was contended that all the candidates shortlisted, were subjected to common interview and the final select list was prepared giving benefit of reservation i.e. permitting the candidates of reserved category to migrate vertically to open category on the basis of their higher marks. It was submitted that although the RPSC has shortlisted the candidates on the basis of their marks obtained in the screening categorywise; but they were never subjected to interview categorywise and therefore, the direction vide judgement dated 8.5.2019 deserves to be reviewed.

6. Per contra, learned counsels appearing for the respondents-writ petitioners supporting the judgement dated 8.5.2019 submitted that the RPSC erred in shortlisting the candidates categorywise and as a matter of fact, migration should have been



permitted at that stage also. It was contended that the judgement dated 8.5.2019 suffers from no error warranting review.

7. Heard the learned counsels for the parties and perused the record.

8. This Court has, vide order dated 19.8.2019, confined the scope of the review petition qua the findings recorded in paragraph 2 at internal page 8 of the judgement dated 8.5.2019, which read as under:

“As far as the main argument which found favour with the learned Single Judge are concerned, this Court is of the opinion no exception can be taken in this regard. The judgment in R.K. Sabarwal (supra) and subsequent authorities are clear that there is a possibility if a reserved category candidate performs and obtains a considerably higher rank, he has to be accommodated in the merit list. In such circumstances the authorities should accommodate him in the general merit category so as to ensure that a vacancy occurs in the appropriate reserved category. The adoption of the separate interview process has defeated that Rule. Quiet rightly, in this Court’s opinion, the learned Single Judge held that the procedure adopted in calling separate categories of candidates for interview to be arbitrary.”

9. It is undisputed that the RPSC has shortlisted the candidates eligible to appear in the interview categorywise as per their merit without permitting migration; but, all such candidates, so shortlisted, were subjected to interview uniformly and not categorywise and the reservation policy has been applied while preparing the final select list permitting migration of the reserved category candidates in the open category as per their merit. From the record, we are satisfied that there has been no categorywise interview. It is settled law that reservation has to be applied at the time of final selection only and cannot be resorted to at each and



every stage of the recruitment process. A larger bench of the Hon'ble Apex Court in the case of **Chattar Singh & Ors. vs. State of Rajasthan & Ors.-(1996) 11 SCC 742**, while interpreting Rule 13 of the Rajasthan State and Subordinate Services (Direct Recruitment by Combined Competitive Examinations) Rules, 1962, held as under:

"Then candidates who had appeared for the Preliminary Examination and qualified for Main Examination are to be screened by the test. The object is to eliminate unduly long list of candidates so that opportunity to sit for Main Examination should be given to candidates numbering 15 times the notified posts/vacancies in various services in various services; in other words for every one post/vacancy there should be 15 candidates. There would be wider scope to get best of the talent by way of competition in the examination. The ultimate object is to get at least three candidates or as is prescribed, who may be called for viva-voce. Therefore, the lowest range of aggregate marks as cut off for general candidates should be so worked out as to get the required number of candidates including OBCs, Scheduled Castes and Scheduled Tribes. The lowest range would, therefore, be worked out in such a way that candidates numbering 15 times the notified posts/vacancies would be secured so as to afford an opportunity to the candidates to compete in the Main Examination.

Under the proviso, if that range has not been reached by the candidates belonging to the SCs or the STs, there may be 5% further cut off from the last range worked out for the general candidates so as to declare them as qualified for appearing in the main examination. In other words, where candidates belonging to the SCs and STs numbering 15 times the total vacancies reserved for them are not available then the Service Commission has to go down further and cut off 5% of the marks from the lowest of the range prescribed for general candidates and then declare as eligible the SC and ST candidates who secured 5% less than the lowest range fixed by PSC for general candidates so as to enable them to appear for the main examination. The candidates who



thus obtain qualifying marks are eligible to appear and write the main examination. The respective proportion of 1:3 or as may be prescribed and candidates who qualified in the main examination will be called by the Commission, in their discretion, for interview. The Commission shall award marks to each candidate interviewed by them, having regard to their character, personality, address, physique and knowledge of Rajasthani culture as is in vogue as per rules. However, for selection to the Rajasthan Police Service, candidates having 'C' Certificate of NCC will be given preference. The marks so awarded shall be added to the marks obtained in the main examination by each such candidate.

In working out this procedure, if the minimum of 15 times of the candidates are identified and results declared, it would not be necessary to pick up more general/reserved candidates. It would not be necessary to declare the result of more than 15 times the total notified vacancies/posts so as to enable them to compete in the Main Examination. The object of screening test is to eliminate unduly long number of persons to appear for Main Examination. If more candidates are called by declaring their result in Preliminary Examination the object of Rule 13 would be frustrated."

10. Relying upon the aforesaid judgement, a division bench of this Court in **Dharamveer Tholia & Ors. vs. State of Rajasthan & Anr.-2000 (3) Western Law Cases (Raj.) 399**, held as under:

"49. Rule 15 of the Rules of 1999 provides the procedure to prepare the list of candidates for appearing in the main examination, therefore, the result of the preliminary examination cannot be considered to be a final result. In regard to the submission made by the Senior Counsel for the petitioner about the reservation policy provided under Article 16 (4) of the Constitution as well as the judgments cited are not in dispute but the same in our view, will not be of any help or assistance to the petitioners at this stage of short listing. The judgment of the Hon'ble Supreme Court relied on by the petitioner in Sabharwal's case (supra) pertains to the promotion policy and also of the



vacancies based on roster system which in our opinion, will be applicable only at the time of preparing the final select list. As per Rule 15, the RPSC shall permit the candidates 15 times the total approximate number of vacancies in each category in the main examination and this Rule has been upheld by the Supreme Court in Chattar Singh's case (supra). The reservation policy is meant for recruitment only and there is no other reservation policy for short listing in examination. As such, the actions of the RPSC are within the mandate of Article 16(4) of the Constitution of India as well as the Rules of 1999. If the contention of the learned Counsel for the petitioners is accepted, the thousands of meritorious candidates who have been selected as per the preliminary examination will be affected and their interest will be jeopardized.

50. It is seen from the additional affidavit filed by the Service Commission that the Commission has declared the result of the preliminary examination on 27th May, 2000 and the list of successful candidates coming within the range of 15 times the number of vacancies set apart for that category was also published and the list of candidates who were not able to come within that range was also published. It is useful to reproduce the details furnished in Paragraphs 3, 4, 5 and 6 of the additional affidavit:

3. That in general category, there are in all 252 vacancies meant for male candidates and 105 vacancies are meant for female candidates. Thus, combined vacancies in general category comes to 357 and the Commission has admitted 5412 candidates for the main examination in terms of Rule 15 of the Rules.

4. That similarly, the combined vacancies reserved in OBC category are 140 and the Commission has admitted 2109 candidates for the main examination, which constitute 15 times the number of vacancies/posts reserved in the OBC category.

5. That similarly, there are 102 combined vacancies reserved in the SC category for male and female both and the Commission has admitted 1538 candidates for the main examination, which also constitute 15 times the number of vacancies reserved in that category.

6. That in ST category, 78 combined vacancies meant for both male and female have been reserved and the Commission has admitted 1190 candidates for the main





examination, which constitutes 15 times the number of vacancies reserved in that category.

51. As held by the Supreme Court, the list of candidates belonging to one category cannot be shifted to another category on the basis of their merit as the list of successful candidates in the preliminary examination is meant only for short-listing the candidates for the main examination and it does not constitute merit of the candidates which is done at the time of preparation of final merit under Rule 17 of the Rules.”

11. Yet, another division bench of this Court in **Garima Sharma vs. State of Rajasthan, D.B. Special Appeal (Writ) No.1448/2016** and one connected matter vide judgement dated **8.5.2018**, held as under:

“The question may be raised as to how the list of open category is to be arranged because it is commonly known as the list of meritorious candidates irrespective of caste.

We appreciate the aforesaid issue. The answer of the question was given by this Court in the case of Dharmveer Tholia (supra). The principal of vertical reservation for migration of meritorious reserve caste candidates to open category would not be applicable for short-listing. The list should only of general caste candidates. In fact, framers of the Constitution never visualized that reservation would be arranged vertically or horizontally. The theory aforesaid has been developed by the Court while adjudicating the issue. So far as the present matter is concerned, the judgment of the Apex Court in the case of Anil Kumar Gupta Vs. State of UP, (1995) 5 SCC 173 also supports the case. If vertical reservation is applied at the stage of short-listing also then virtually it would amount to grant of reservation at every stage of selection, though, is meant to apply at the final stage of recruitment and while giving appointment.

Onwards, the RPSC would not deviate from Rule 15 of the Rules of 1999, rather, not only that candidates would not be called more than fifteen times to each category but it would not be by migrating the candidates from one category to other. They would follow the judgment of the Division Bench of this Court in the case



of Hanuman Jat & Ors. (supra) and the Apex Court in the case of Chattar Singh (supra).”

12. The upshot of the aforesaid judgements of the Hon’ble Apex Court and division benches of this Court is that migration is not to be applied while shortlisting the candidates for interview/main exam after subjecting them to screening test and it has to be applied at the time of final selection i.e. preparing the final merit list only. Since, there was no categorywise interview, the judgement dated 8.5.2019 qua its findings recorded in paragraph 2 at internal page 8, suffers from the error apparent on its face. Therefore, the review petitions are allowed, the judgement dated 8.5.2019 is recalled and set aside to the extent directions contained therein requiring the RPSC to subject all the candidates declared successful in the screening process together for interview, prepare a combined merit list and thereafter work out the revise merit list giving due weightage to the rule of migration. Resultantly, the special appeals are allowed in terms that the select list dated 18.5.2019 is held to be valid.

13. Office to place a copy of this judgement in each connected case.

(MAHENDAR KUMAR GOYAL),J

(SANGEET LODHA),J

RAVI SHARMA /25-33

सत्यमेव जयते