



2026:AHC:4700

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - A No. - 19311 of 2025

Rajneesh Kumar Sharma And 9 Others

.....Petitioner(s)

Versus

State Of U.P. And 2 Others

.....Respondent(s)

Counsel for Petitioner(s)	:	Aditya Prakash Verma, Ranjana Verma, Shailesh Verma
Counsel for Respondent(s)	:	C.S.C.

Court No. - 33

HON'BLE VIKAS BUDHWAR, J.

1. Heard Sri Shailesh Verma, learned counsel for the writ petitioner and Sri R.S. Umrao, learned Standing Counsel for the State.

2. Sri R.S. Umrao has made a statement at bar that he is well equipped with the instructions and he is in a position to argue the matter and he does not propose to file any affidavit and the writ petition be decided on the basis of the documents available on record. With the consent of the parties, the writ petition is being decided at this stage.

3. The case of the writ petitioner is that the writ petitioners are Ex Army Men, details whereof has been given in para 10 of the writ petition which is quoted as under.-

"10. That it is relevant to point out here that the petitioner no. 1 was enrolled in the Army on 21.07.2000 and was discharged from the post of Havildar on 31.08.2018; the petitioner no. 2 was enrolled in the Army on 16.02.2003 and was discharged from the post of Sepoy on 29.02.2020; the petitioner no. 4 was enrolled in the Army on 18.02.2002 and was discharged from the post of Sepoy ACP-I on 28.02.2019; the petitioner no. 5 was enrolled in the Army on 15.02.2002 and was discharged from the post of Sepoy on 28.02.2019; the petitioner no. 6 was enrolled in the Army on 09.04.1999 and was discharged from the post of Havildar on 31.10.2018; the petitioner no. 7 was enrolled in the Army on 16.04.2002 and was discharged from the post of Sepoy ACP-II on 30.04.2019; the petitioner no. 8 was enrolled in the Army on 03.01.2000 and was discharged from the post of Havildar on 31.01.2019; the petitioner no. 9 was enrolled in the Army on 13.07.1998 and was discharged from the post of Havildar on 30.04.2018; the petitioner no. 10 was enrolled in the Army on 12.12.2000 and was discharged from the post of Naik on 31.05.2019. Copies of relevant records of petitioners' past service in the Army is being filed herewith and marked as Annexure no. 5 to this writ petition."

4. According to the writ petitioner, they had participated in the selection on the post of firemen pursuant to a recruitment exercise undertaken by

the respondents being Uttar Pradesh Police Recruitment and Promotion Board on 29.11.2018, the writ petitioners were selected pursuant to an examination held on 19/20.12.2020, select list came to be published and they were sent for training, however, now their pay protection referable to erstwhile assignment in Army is not being considered on the pretext that there happens to be a Government Order dated 23.12.2020. Learned counsel for the writ petitioner seeks to rely upon a decision of this Court in **Writ-A No. 10689 of 2024 (Sita Ram Sharma and 13 others Vs. State of U.P. and 3 others)** wherein the classification with regard to the cut of date so specified in the Government Order dated 23.12.2020 has been negated. He also contends that now the intra-court appeal being **Special Appeal No. 1233 of 2025 (State of U.P. and 3 others Vs. Vinay and 3 others)**, the matter stands covered while dismissal of the appeal of the State Government.

5. Sri R.S. Umrao, learned Standing Counsel as per instructions submits that the present case is covered by the judgment in **Sita Ram Sharma (supra)** as affirmed by the Special Appellate Bench.

6. I have heard the submission so made across the bar and perused the record.

7. Facts are not in issue. It is not in issue that the writ petitioners are Ex Army Men who have been appointed. In **Sita Ram Sharma (supra)** reads as under.-

"1. Heard learned counsel for the petitioners and learned Additional Chief Standing Counsel.

2. By means of above writ petitions filed under Article 226 of the Constitution, petitioners who were selected for Constable GD in U.P. Civil Police 2018 are aggrieved for the discriminatory stand taken by respondents in not awarding them pay protection in terms of last pay drawn by them as ex-army personnel. All the petitioners were selected and appointed in the category of ex- army men and submit that if as a result of the same selection, selectees are sent in four batches for training at different point of time, the State is not justified in awarding pay protection to first batch of trainees and denying the same to other trainees only on the ground that Government Order decided for not giving a pay protection to ex- servicemen with effect from a subsequent date.

3. It is submitted that after selection was held selected candidates were required to be sent for training, but due to the then prevailing circumstances for Pandemic Covid-19 the U.P. Directorate Police Training vide its order dated 25th July, 2020 divided selectees in four batches to be sent for training on different dates for different period. The first batch was sent for training in August, 2020 for the period of six months, second batch was sent for training in March, 2021 for the period of six months, the third batch was sent for training in October 2021 for six months and last and fourth batch was sent for training in May, 2022 for six months.

4. *The petitioners before this Court claim to have been sent for training in second batch, which started from March, 2021 and lasted for six months till September, 2021. While first batch was completing its training appointment order got issued in their respect prior to the Government order dated 23rd December, 2020, the date when Government Order got issued, in which it was decided that no more pay protection shall be granted to the selectees, who are ex army personnel. The Government Order provided further that it will come into force with immediate effect. The relevant paragraph of the Government Order as contained in paragraph 22 is reproduced hereunder:*

"उपर्युक्त प्रस्तर-1 में वर्णित तथ्यों को ध्यान में रखते हुये शासन स्तर पर सम्यक् विचारोपरान्त लिये गये निर्णय के क्रम में मुझे यह कहने का निदेश हुआ है कि राज्य सरकार की सेवा में भूतपूर्व सैनिकों का पुनर्योजन किये जाने की दशा में उनके वेतन निर्धारण के संबंध में राज्यपाल महोदया द्वारा निम्नवत प्रक्रिया निर्धारित करने की स्वीकृति प्रदान की गयी है:-

(1) सेना से सेवानिवृत्त सैन्य कर्मियों का राज्य सरकार की सेवा में पुनर्योजन होने पर उन्हें उस पद के वेतनमान में ही वेतन ग्राह्य होगा जिस पद पर उनका पुनर्योजन हुआ है। सेवानिवृत्ति के पूर्व धारित पद के वेतनमान का संरक्षण नहीं किया जायेगा।

(2) ऐसे पुनर्योजित सैन्य पेंशनर जिनकी पूरी पेंशन वेतन निर्धारण हेतु उपेक्षणीय (*ignored*) है, का वेतन पुनर्योजन के पद के वेतनमान के न्यूनतम पर निर्धारित किया जायेगा।

(3) ऐसे प्रकरण जिनमें वेतन निर्धारण हेतु पूरी पेंशन उपेक्षणीय (*ignored*) नहीं है, उनमें पुनर्योजन पर प्रारम्भिक वेतन सेवानिवृत्ति के पूर्व प्राप्त वेतन के प्रक्रम पर निर्धारित किया जायेगा, परन्तु-

(I) यदि पुनर्योजन के पद के वेतनमान में ऐसा प्रक्रम उपलब्ध नहीं है, तो उक्त प्रक्रम के ठीक नीचे वाले प्रक्रम पर वेतन निर्धारित किया जायेगा।

(ii) यदि पुनर्योजन के पद के वेतनमान का अधिकतम सेवानिवृत्ति के पूर्व आहरित वेतन से कम है, तो पुनर्योजन के पद के वेतनमान के अधिकतम पर वेतन निर्धारित किया जायेगा।

(iii) यदि पुनर्योजन के पद के वेतनमान का न्यूनतम सेवानिवृत्ति के पूर्व आहरित अन्तिम वेतन से अधिक है, तो वेतन निर्धारण पुनर्योजन के पद के न्यूनतम पर किया जायेगा।

उपरोक्तानुसार निर्धारित होने वाले वेतन में से, सैन्य सेवा से प्राप्त पेंशन का वह भाग जो उपेक्षणीय (*ignored*) नहीं है, घटा दिया जायेगा।

(4) राज्य सरकार की सेवा में पुनर्योजित सैन्य पेंशनर उपरोक्तानुसार निर्धारित वेतन के अतिरिक्त अपनी पूरी पेंशन अन्य सेवानिवृत्तिक लाभ सहित आहरित करते रहेंगे।

4- उपरोक्त आदेश तात्कालिक प्रभाव से लागू होंगे अर्थात् शासनादेश निर्गत होने की तिथि अथवा उसके उपरान्त राज्य सरकार की सेवा में नियुक्ति पाने वाले भूतपूर्व सैनिकों के प्रकरण इन आदेशों से आच्छादित होंगे। शासनादेश की तिथि के पूर्व राज्य सरकार की सेवा में पुनर्योजित हो चुके सैन्य पेंशनरों के प्रकरण पुनरूद्घटित (रीओपेन) नहीं किये जायेंगे।"

5. *Learned counsel for the petitioners argued that after first batch completed its training in January, 2021, it was accorded with pay protection and for example pay*

fixation of Kuldeep Singh newly selected constable bearing pno no. 202641386 dated 24th January, 2024 has been brought on record. It is argued that after benefit was accorded to the first batch, the candidates selected in second, third and fourth batch who were also ex- army personnel, were not accorded with this benefit.

6. These above pleadings have come to be raised in paragraph 14 of the writ petition, in which details of various other constables who were benefited with last pay protection, that they were claiming as ex-army men. In the counter affidavit in reply to paragraph 14. Vide paragraph 16, it has been averred thus:

“ That the contents of paragraph no. 14 of the writ petition are admitted to the extent that at the time of appointment of the constable Kuldeep Singh PNO No. 202641386 in the police department on 11.10.2020 the government order dated 26.8.1977 and 18.5.1983 were effective, currently, the government order dated 23.12.2020 for the reappointment of the ex-serviceman in the service of state government is effective, in which it is clearly mentioned that the above order will be implemented with immediate effect i.e. in the cases of the ex-serviceman who have been appointed in services of the state government on or after the date of issue of the Government Order will be covered by this order”

7. From a bare reading of the averments made in paragraph 14 of the Counter affidavit as quoted above, it transpires that Kuldeep Singh though was sent for training in first batch was was offered appointment on 11.10.2020 when the Government Order dated 26.8.1977 and 18.5.1983 were in force and hence he was accorded this benefit of pay protection. However, coming into force of government order dated 23.12.2020 in respect of re-appointment of ex servicemen they were held not entitled for pay protection of their previous establishment and hence no such benefit could be given to the present petitioner. Thus, it is admitted position of fact that petitioners have been denied pay protection only on account of their training getting completed subsequently to the first batch of training though the petitioners were also trainees like first batch who later on became constables. Thus all appointees were selected pursuant to selection and recruitment held in the year 2018 and hence claimed pay parity.

8. Learned Standing Counsel has sought to defend the stand taken under the Government Order denying pay protection, relying upon an authority of Supreme Court in the case of Union of India v. Anil Prasad 2022 5 SCC 461 wherein Central Government rules denying benefit of pay protection to ex army men had been upheld. It is submitted, therefore that no flaw can be found in the action of government in denying pay protection benefit so as to hold it to be perverse or otherwise discriminatory or arbitrary. Learned Standing Counsel has relied upon paragraph 4.5 of the judgment, which runs hereunder:

“5.4 Therefore, the pay fixation of the respondent in the government service was absolutely in consonance with para 8 of the CCS Order 1986. Para 8 does not provide that on reemployment in Government Services a retired Armed Force personnel would be entitled to his basic pay being fixed at par with his last drawn pay. Holding so will

violate para 8 of the CCS Order. Under the circumstances the High Court has committed a grave error in observing and holding that the retired Armed Forces personnel on reappointment in the government service would be entitled to the last drawn pay as Armed Forces personnel. Therefore, the impugned judgment and order passed by the High Court is unsustainable being contrary to para 8 of the CCS Order, 1986.”

9. Having heard learned counsel for the respective parties and having perused the records, I find that in this petition there is more challenge to the discrimination being meted out to the petitioners than the relevant provision contained in the Government Order denying benefit of pay protection to ex-army personnel while getting re-employment in government non-defence establishment.

10. Learned counsel for the petitioner has placed emphasis upon judgment in the case of Manilal v. The State of Rajasthan and Others, 2024 0 SC 764, and has contended that merely if counselling was not held and got delayed the teachers being similarly and identically placed pursuant to same selection could not have been discriminated against. He has placed reliance upon paragraph 15 of the Judgment, that runs as under:

“The appellant’s case was more akin to the case of Rakesh Gaur (supra), who had taken admission on 05.11.2009. We are clearly of the opinion on the special facts of this case that the Division Bench erred in applying the case of Dinesh Chandra Damor (supra) instead of applying the reasoning in the judgment in Ankul Singhal (supra) and Rakesh Gaur (supra) to the facts of this case. As was held in Ankul Singhal (supra), it will be improper to discriminate inter se among a homogenous group of students admitted for the academic session 2009-10. As was pointed out therein, it could not be that those students admitted in the first round of counselling would be eligible, even with less than 50% marks in graduation, while the others admitted in the subsequent rounds of counselling would not be. It was on this reasoning that Rakesh Gaur (supra) was given relief. Rakesh Gaur (supra) was a case identically situated with the case of the appellant. What is sauce for the goose should be sauce for the gander too.”

11. Thus only question that requires determination by this Court in this petition is whether pay protection granted to the selected candidates of the same selection while they were sent for training in earlier point of time could be denied to the petitioners who got training subsequently as training was being organized in four different batches on account of impact of pandemic Covid- 19. There is no denial at the end of respondents that all petitioners who were sent in second batch for training and subsequently were selected for the post of constable (GD) U.P Police under the same selection pursuant to the same advertisement. The training is part-exercise undertaken for giving appointment to such selected candidates and once the candidate is selected training takes place as a result of consideration being placed in select list finally published and declared. Thus no more any stage of selection remained to be attended once selected list was prepared for the candidate to be sent for training for

appointment purposes. It is, therefore, part and parcel of exercise to offer appointment to the selected candidates, and therefore, in the considered view of the Court, respondents on their own in administrative exercise of power if decided to bifurcate trainees in different cluster and groups to be sent on different dates for training and upon completion of training successfully such trainees were being offered appointment, they should definitely not be discriminated against in the matter of service benefits, like pay-scale, allowance and other emoluments that are admissible to post in question. Even in the matter of seniority, the select list is only to be followed. The judgment that has been cited in the case of Manilal (supra) squarely covers the case of petitioners'. The Court therein had held that discrimination inter se amongst homogeneous group cannot be approved. Thus all the selectees pursuant to the same selection would form a homogeneous group and their appointment is only a consequential result of training course subject to their rejection during training. Once a homogeneous group is sent for training, all the members are to be treated alike.

12. Any classification on the basis of cluster or groups being sent for training would hit Article 14 of the constitution as it would not form a reasonable classification for the purposes of giving benefit to identically placed employees. A well settled rule of equality is that unlike cannot be treated alike and identically placed are to be treated alike for pay parity and to be offered service benefits.

13. In the matter of Firangi Prasad v. State of U.P and Others (2011) 2 UPLBEC 987, this Court has held that for the fault of appointing authority in issuing appointment letter, petitioners cannot be put to a disadvantageous position. Although this matter related to regularization but since management had issued delayed appointment orders and even beyond cut off date of regularization rules, all were treated alike to be given benefit of regularization. This judgment has further been followed in the case of Mahesh Naryan and Others v. State of U.p. and Others (Writ A No. 55606 of 2008), decided on 19.12.2019, in which all the applicants of one advertisement upon being selected were taken to form a homogeneous group to give benefit of old pension scheme for the reason that advertisement and selection took place prior to scrapping off the old pension scheme even though appointment orders issued subsequently.

14. In such above view of the matter while I do not find any thing discriminatory in government order in its application so far as denial of pay protection is concerned to ex-army men, but government order would apply only to those cases where candidates were selected after its issuance. All those who have been sent for training to be ultimately given appointment will form one homogeneous group to be privileged with all such benefits including pay protection and their claim will not yet hit by the government order.

15. In so far as judgment cited by learned standing counsel, I do not find any quarrel about the same, qua the law laid down therein because I am also of the view that government order need not be set aside in special circumstances of this case, rather it is held to be not applicable to the present case.

16. In view of above, writ petition succeeds and is allowed. Respondents no. 3 is directed to surrender benefit of last pay protection to the petitioners as has been given to the first batch of trainees pursuant to U.P. Police Constable Recruitment 2018. Appropriate order shall be passed and consequential benefit will be accorded to the petitioners within maximum period of thirty days from the date of presentation of certified copy of this order."

8. Further in State of U.P. and 3 others Vs. Vinay and 3 others (supra) reads as under.-

"1. Heard Sri Manish Goyal, learned Additional Advocate General, assisted by Sri Tej Bhanu Pandey, learned Standing Counsel, for the appellants in all the appeals, and Sri R.K. Ojha, learned Senior Advocate, assisted by Sri Satyendra Chandra Tripathi and Sri Aditya Prakash Verma, learned counsel for the respondents in their respective appeals.

2. All these appeals have been preferred against the common judgment and order dated 09.04.2025 passed by learned single-judge in connected writ petitions decided along with Writ A No. 10689 of 2024, Sita Ram Sharma & 13 Others Vs. State of U.P. and 3 Others, whereby the writ petitions filed by respondents herein were allowed and the Appellant no. 3 (herein) has been directed to surrender benefit of last pay protection to the petitioners therein, as the same has been given to the first batch of trainees, pursuant to U.P. Police Constable Recruitment 2018 and appropriate order shall be passed and consequential benefit of maximum 30 days from the date of presentation of certified copy of the said order.

3. The appellant State of Uttar Pradesh has raised identical issue in all these appeals, and therefore, they were heard together and are being decided by this common order. The core question involved in all appeals is that whether candidates placed in the same selected list, could be treated as different class, based on the date of their respective appointment letters and the date mentioned for their training. The factual details regarding candidates in each appeal, such as their past service details, the date of appointment letter and date mentioned in the letter for their training period, may differ.

4. For convenience, the factual details are being taken from Special Appeal No. 1240 of 2025, as the same was leading petition in the judgment and order dated 09.04.2025 passed by the learned single-judge, however, the outcome of the present common order shall apply to all connected matters. Only factual difference being the number of respondents/candidates in the connected appeals.

5. After perusal of records in this consolidated group of Special Appeal matters, it appears that all respondents herein are former members of the Indian Armed Forces, having been enrolled at different points in time in various regiments. It further appears that each respondent was discharged or retired upon due completion of his term of engagement. Notwithstanding differences in their individual periods of service, the common fact emerges across these matters is that all respondents had

concluded their military service and got selected after following due procedure and secured their place in the same selection list, which is the subject of these batch of appeals.

6. Learned Additional Advocate General, appearing for the State, submits that the select list prepared pursuant to the direct recruitment of October 2018 did not conclude the process of appointment, as training forms an integral component of the process. He submits that, owing to the restrictions imposed during the Covid-19 pandemic, it became necessary for the State to conduct the training of selected candidates in phased manner, and therefore, appointment letters were issued on different dates corresponding to the respective training phases of the candidates. It is further submitted that the U.P. Directorate of Police Training, by its order dated 25.07.2020, divided the selected candidates into four batches for training on separate dates and for different periods. Thereafter, the first batch commenced training in August 2020 for a period of six months. The second batch commenced in March 2021 for six months. The third batch commenced in October 2021 for six months, and the fourth batch commenced in May 2022, also for a period of six months.

7. According to the learned Additional Advocate General, the State was well within its authority to prescribe different pay structure for candidates scheduled to go for training in different batches, at different point in time, and appellant State was further justified in giving appointment letter to candidates in other batches without offering same pay protection, which was granted to members who went for training in the first batch. It is also submitted that the select list cannot be regarded as a homogeneous class for all purposes, and that the State is justified in placing the later three batches on a distinct footing from the first batch, which had already completed training earlier to other batches.

8. It is undisputed that the first batch, which completed its training in January 2021, was extended the benefit of pay protection. The principal contention advanced by the learned Additional Advocate General is that the differential treatment accorded to candidates belonging to different batches, which are selected from the same list, is within the permissible scope of Article 14 of the Constitution of India, and therefore the State is entitled to prescribe distinct pay structures for the four batches that commenced training at different points in time.

9. In support of his submission, learned Additional Advocate General has placed reliance upon Rules 19 of the Uttar Pradesh Police Constable and Head Constable Services Rules, 2015, which is reproduced below for easy reference:

Rule - 19. Training.

(1) (a) The candidates finally selected to the posts of constable under Rules 15 and 16 shall be required to pass the training prescribed by the Head of the Department. Provisions of Police Training College Manual shall be effective on the cadets during the basic training. If the candidate finally selected for basic training does not report for training within the prescribed time limit then his selection/candidature shall be cancelled.

(b) Re-examination of the cadets failing in basic training shall be organized by the Head of the Department after doing supplementary training. The proceeding for termination of service of candidates failing in examination of training after supplementary training shall be done by the Appointing Authority.

(2) The candidates appointed by promotion under Rule 17 shall be required to complete the training prescribed by the Head of the Department.

10. Learned Additional Advocate General, contends that candidates finally selected to the post of Constable are mandatorily required to undergo and pass the basic training prescribed by the Head of the Department, failing which their selection is liable to be cancelled. It is submitted that the Rule also empowers the authorities to conduct supplementary training and re-examination, and to terminate the services of candidates who fail even thereafter, while candidates appointed by promotion are likewise required to complete the prescribed training and therefore, until training is complete, the State is at liberty to provide changes in the salary structure because the selection process is not complete.

11. Per contra, learned counsel appearing for the respondents submits that the action of the State is in violation of fundamental right to equality guaranteed under Article 14 of the Constitution of India. He further submits that the respondents were selected pursuant to the recruitment process initiated in 2018 for the posts of Constables in the Civil Police and PAC and were duly placed in the ex-servicemen category in the result declared in March 2020. He further contends that the Government Order dated 23.12.2020, insofar as it provides that all appointments made after the said date shall not be entitled to pay protection, are not acceptable, being contrary to the settled principles of law, particularly when all candidates are placed in the same select list. It is further submitted that candidates appointed in the first phase were extended the benefit of pay protection, which fact has been consistently admitted by the State Government.

12. Learned counsel for respondents further relies upon Manilal vs. State of Rajasthan, AIR 2024 SC 4404, and submits that all the candidates who were selected pursuant to a common selection would constitute a single homogeneous group and discrimination inter se among this homogeneous group is in violation of Article 14 of the Constitution. He also relies upon Mahesh Narayan and others v. State of U.P. and others, Writ A No. 55606 of 2008 decided on 19.12.2019 decided by this High Court. Relying upon above judgments, learned counsel contends that such a distinct treatment can only be justified on some intelligible differentia, which does not exist in facts of these cases.

13. Learned counsel appearing for the respondents also responds to the argument advanced by the Learned Additional Advocate General regarding training i.e., Rule 19 of the U.P. Police Constables and Head Constables Rules, 2015. According to him, the learned single-judge has rightly observed that the training is an exercise for selected candidates and no more stage of selection remained to be attended, once selected list was prepared for the candidate to be sent for training for appointment

purposes. He further relies upon Rule 18 of the U.P. Police Constables and Head Constables Rules, 2015, which is reproduced below for easy reference:

Rule - 18. Appointment.

(1) Subject to the provisions of Rules 15 and 16 the appointing authority shall make appointment by taking the names of candidates in the same order in which they stand in the list prepared under clause (g) of Rule 15. The appointing authority shall issue the appointment letter to the candidates with the direction that they should report for service/training within one month of the date of issue of the letter or any date specified for this purpose in the appointment letter. If he does not do so his selection/appointment shall be cancelled:

Provided that any person appointed to a post in the service prior to the commencement of these rules and is working on the post, shall be deemed to have been substantively appointed under these rules.

(2) If more than one order of appointments are issued in respect of any one selection under Rule 17, then a combined order shall also be issued, mentioning the names of the persons in order of seniority as determined in the selection or, as the case may be, as it stood in the cadre from which they are promoted:

Provided that any person appointed before the commencement of these rules to a post in the service and working on that post shall be deemed to have been substantively appointed under these rules and such substantive appointment shall be deemed to have been made under these rules.

14. Placing reliance on the aforesaid provision, learned counsel for the respondents submits that Rule 18 contemplates issuance of the appointment letter to candidates selected under Rules 15 and 16, and only then Rule 19 requires such candidates to report for training. Learned counsel for the respondents submits that the scheme of the Rules clearly demonstrates that the appointment letter precedes the training, and therefore, the training cannot be treated as a part of the selection process, as has been rightly held by the learned single-judge, since the training is to be conducted after the appointment.

15. We have heard learned counsel for the appellants/State as well as learned counsel for the respondents and have perused the record, including the findings recorded by the learned single-judge. Certain foundational facts are not in dispute. All candidates, irrespective of the batch in which they were subsequently deputed for training, were selected pursuant to the same recruitment advertisement issued in October 2018. The select list was common, the selection process uniform, and the appointments were inseparably linked to the same recruitment exercise.

16. From simple perusal of records, it appears that all appointment letters pertain to appointments made pursuant to the same direct recruitment of October 2018, originating from a single advertisement and selection process. It is also not the case of

any party that the advertisement led to the select list has stipulated any such classification or category-wise distinction. Moreover, the State has not demonstrated that placing candidates to be sent in four different phases for training were attributable to any rational classification.

17. In the light of aforesaid discussion, we are of the considered view that the training to be conducted in phases was necessitated solely by the infrastructural limitations faced by the appellant State and exigencies arising from the Covid-19 pandemic and not due to any intelligible differentia amongst the candidates in the select list. Therefore, depriving candidates placed under training on later batches, is grossly arbitrary and suffers the vice of hostile discrimination.

18. Complete basis of the argument of the learned Additional Advocate General is that the phased training itself created four different categories, thereby enabling the State to prescribe different pay structures to withhold pay protection from the respondents who formed part of the later batches.

19. While this Court accepts the existence of pandemic-related exigencies and infrastructural limitations but such external and temporary administrative compulsions cannot justify differential treatment among candidates belonging to a homogeneous class. The legal position governing permissible classification under Article 14 is too well settled to require elaboration and when tested on settled parameters, the justification offered by the appellant State does not withstand scrutiny.

20. In The State of West Bengal Vs. Anwar Ali Sarkar (1952) 1 SCC 1, Supreme Court has held that the classification should not be vague, uncertain or elusive. To pass the test of equality as per Article 14 of the Constitution of India, the classification must be based upon an intelligible differentia because the purpose of the Article 14 is to protect every person from arbitrary discrimination, whether occasioned by the express terms of a statute or by the improper application of a statute. Any classification must rest upon an intelligible differentia having a rational nexus with the object sought to be achieved, failing which, such classification results in impermissible discrimination.

21. In Direct Recruit Class II Engineering Officers? Association v. State of Maharashtra (1990) 2 SCC 715, Supreme Court has held that candidates forming part of the same recruitment notification and selection process constitute a single class for the purpose of service benefits. Regarding determination of seniority the Apex Court has held that once the incumbent is appointed to a post according to rule, his seniority must be counted from the date of his appointment and not according to the date of his confirmation. Applying this principle, the completion of training cannot be considered as a point to be considered for creating a sub-class amongst candidates placed in same select list.

22. The appellants have not pointed to any statutory rule which authorizes the State to create sub-categories within a select list for the purpose of pay fixation or pay protection. Indeed, the State's own stand is that the phased dispatch for training was

compelled solely by administrative necessity. Administrative exigency, even when bona fide, cannot be elevated to a constitutionally permissible differentia under Article 14. To permit such a course would enable the State to fragment uniform entitlements on the basis of arbitrary or accidental circumstances, a practice repeatedly disapproved by the Supreme Court.

23. The learned single-judge was therefore, correct in holding that the respondents and other similarly situated candidates, who were selected through the same recruitment process of October 2018, could not be deprived of pay protection and service benefits extended to the first batch of candidates, sent for the training, earlier. Upon independent application of constitutional standards, we find no infirmity in the conclusion recorded by learned single-judge.

24. For the reasons recorded herein above, we are of the view that the differentiation made by the appellants State among candidates placed in the same select list, based solely on the dates on which they were sent for training, constitutes an impermissible classification in violation of Article 14 of the Constitution of India.

25. The benefit of pay protection and the corresponding pay structure, extended by the State to the first batch, cannot be withheld from candidates of the second, third, and fourth batches who were part of the same recruitment process and placed in the same selection list.

26. We, therefore, find no ground to interfere with the judgment of the learned single-judge. The batch of special appeals accordingly fails and is dismissed. The direction issued by the learned single-judge to extend pay protection and consequential benefits to the respondents and all other similarly placed candidates is affirmed. The State shall ensure compliance within twelve weeks from the date of this order. No order as to costs.

27. Pending applications, if any, stands disposed of."

9. Accordingly, the impugned order dated 07.08.2023 is set aside, matter stands remitted back to the authorities to pass a fresh in terms of the above judgment within a period of two months.

10. With the aforesaid observations, the writ petition stands disposed of.

(Vikas Budhwar,J.)

January 8, 2026

Rajesh