

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

Civil Appeal No.7663/2021

PRAVEEN KUMAR KURMI

Appellant(s)

VERSUS

THE STATE OF MADHYA PRADESH & ORS.

Respondent(s)

O R D E R

We have heard learned counsel for parties and must say that the respondents have taken a reasonable stand more so in view of the fact that a vacancy had been kept in terms of the Order dated 20th July, 2018.

It is thus their stand that the appellant can be accommodated against that vacancy.

In view of the aforesaid position, we are not required to pen down a detailed judgment but would only like to make some observations so that the problem doesn't arise in the future. There is no cavil to the proposition sought to be advanced by learned counsel for the respondent that the manner of working out of the reservation policy is in accordance with the judgment of this Court in *Indra Sawhney & Anr. Vs. Union of India & Anr.* 1992 Suppl. 3 SCC 2017. However, the allocation of the service is a different aspect. The appellant got selected, on merit without being required to avail of the benefit of the reservation. If he had availed of the benefit of the reservation, he would have been allotted District Police Force. He has been allotted Special Armed Force. The quibble

was only with the particular service being allocated to the appellant and the result of what the respondents did was that the person lower in merit to the appellant who in fact availed of the reservation policy benefit was entitled to the District Police Force while the appellant was denied his first preference and allotted the Special Armed Force.

This issue is really no more *res integra* in view of a catena of judicial pronouncements¹ for the proposition that the scenario where a person, though from the reserved category, is not required to avail of the benefit of the same on account of his merit, would be required to be adjusted against the general seat, at the same time it should not work out to the disadvantage of such a candidate and he may not be placed in a more disadvantageous position than the other less meritorious reserved category candidates.

We have penned down so to ensure that the respondents do not find themselves in a predicament as in the present case for the future.

It is directed that the appellant would be entitled to the first preference of District Police Force with all benefits of pay and seniority of that force from the date he joined the Special Armed Force.

¹*Shri Ritesh R. Sah Versus Dr. Y.L. Yamul & Ors. (1996) 3 SCC 253 at paragraph Nos. 14 & 17, Alok Kumar Pandit Vs. State of Assam & Ors. (2012) 13 SCC 516 at paragraph Nos.24.1 & 24.2, Tripurari Sharan and Anr. Vs. Rajit Kumar Yadav & Ors. (2018) 2 SCC 656 at paragraph Nos.12,13,25,26.1 & 26.2 and Saurav Yadav & Ors. Vs. State of Uttar Pradesh & Ors. (2021) 4 SCC 542 at paragraph No.26.*

The civil appeal is accordingly allowed, leaving parties to bear their own costs.

.....J.
(SANJAY KISHAN KAUL)

.....J.
(M. M. SUNDRESH)

NEW DELHI;
24TH FEBRUARY, 2022

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

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([PART-HEARD BY HON'BLE SANJAY KISHAN KAUL AND HON'BLE M.M.
SUNDRESH, JJ.])

Date : 24-02-2022 This appeal was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE SANJAY KISHAN KAUL
HON'BLE MR. JUSTICE M.M. SUNDRESH

For Appellant(s) Mr. Rishabh Sancheti, Adv.
Mr. Anshit Bhandari, Adv.
Ms. Saloni Bhandari, Adv.
Ms. Racheeta Chawla, Adv.
Mr. K. Paari Vendhan, AOR

For Respondent(s) Mr. Mukul Singh, Adv.
Mr. Sunny Choudhary, AOR
Mr. Rajan Chaurasiya, Adv.

Mr. Rajul Shrivastav, Adv.
Ms. Monisha Handa, Adv.
Mr. Mohit D. Ram, AOR

UPON hearing the counsel the Court made the following
O R D E RThe civil appeal is allowed in terms of the signed order.
Pending application(s), if any, stands disposed of.(RASHMI DHYANI)
COURT MASTER(POONAM VAID)
COURT MASTER

(signed order is placed on the file)