2025:AHC:224477-DB

AFR

Reserved on 02.12.2025
Delivered on 15.12.2025

HIGH COURT OF JUDICATURE AT ALLAHABAD

SPECIAL APPEAL No. - 1233 of 2025

The State Of Up And 3 Others

.....Appellant(s)

Versus

Vinay And 3 Others

.....Respondent(s)

Counsel for Appellant(s) : C.S.C., S.C., Tej Bhanu Pandey
Counsel for Respondent(s) : Aditya Prakash Verma, Ranjana Verma, Shailesh Verma

---

Along with :

1. **Special Appeal No. 1239 of 2025:**
   The State of UP and 6 Other
   Versus
   Constable C.p. Amit Kumar Baliyan and 17 others
2. **Special Appeal No. 1240 of 2025:**
   The State of U.P. and 3 others
   Versus
   Sita Ram Sharma and 13 others
3. **Special Appeal No. 1241 of 2025:**
   The State of UP and 5 others
   Versus
   Constable Fireman Dheer Singh 4 others
4. **Special Appeal No. 1242 of 2025:**
   The State of UP and 3 others
   Versus
   Naval Kishor

Court No. - 3

HON'BLE SAUMITRA DAYAL SINGH, J.
HON'BLE SWARUPAMA CHATURVEDI, J.

(Per: Swarupama Chaturvedi,J.)

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 send 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.

(Swarupama Chaturvedi,J.) (Saumitra Dayal Singh,J.)

December 15, 2025

#Vikram/-

Digitally signed by :-
VIKRAM GUPTA
High Court of Judicature at Allahabad