



2026:DHC:8019-DB



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% **Date of decision: 18.09.2026**

CNR No. DLHC010287402024

+ **W.P.(C) 7078/2024 & CM APPL. 28059/2026**

NEERAJ AND ORS

.....Petitioners

Through: Ms. Suroor Mander & Mr. Luma
Kanta Bhandari, Advs.

versus

HIGH COURT OF DELHI AND ANR

.....Respondents

Through: Mr. Siddharth Thakur, Adv. for R-1.
Mrs. Avnish Ahlawat, SC- GNCTD
with Mrs. Tania Ahlawat, Mr. Nitesh
Kumar Singh, Ms. Aliza Alam & Mr.
Mohnish Sehrawat, Advs. for R-2.

CORAM:

HON'BLE MR. JUSTICE AVNEESH JHINGAN

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

AVNEESH JHINGAN, J. (ORAL)

1. This writ is filed seeking de-reservation of seats reserved for Scheduled Tribe [for short 'ST'] category in Delhi Higher Judicial Service [for short 'DHJS'] in the advertisement issued by Respondent No. 1 for direct recruitment in the year 2023. Direction is sought for appointment of the petitioners against the vacant posts reserved for ST category candidates.

BRIEF FACTS

2. On 13.07.2023, respondent no. 1 issued an advertisement [for short



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‘2023 advertisement’] for filling sixteen vacancies by way of direct recruitment to the DHJS through DHJS Examination, 2023 [for short ‘2023 Examination’]. Out of the sixteen vacancies, three were reserved for the General category, seven for the Scheduled Castes [for short ‘SC’] category and six for the ST category. Pursuant to the advertisement, the 2023 Examination was conducted in three stages:

- i. Preliminary Examination (Objective Type)
- ii. Mains Examination
- iii. Viva Voce

2.1 The petitioners applied for the 2023 Examination under the General category. As per the ‘Select List of Recommended Candidates as well as Waitlisted Candidates in Order of Merit (Category wise)’ dated 14.02.2024, nine candidates were selected from the General category and two from the SC category. However, no ST category candidate qualified. While three General category candidates were appointed, six were placed on the waiting list. The petitioners were among the six candidates placed on the General category waiting list. The positions of the petitioners in the waiting list are tabulated below: -

Sr. No.	Name/Petitioner herein	Position in order of Merit	Waiting list Serial No.
6	Ravinder Singh/Petitioner No. 2	6	3
7	Neeraj/Petitioner No. 1	7	4
8	Indresh Kumar Gupta/Petitioner No. 3	8	5

2.2 On 19.02.2024, the petitioners submitted a representation to the



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Registrar General of the Delhi High Court seeking de-reservation of the seats reserved for ST category candidates, which remained unfilled since 2010. The petitioners were informed *vide* letter dated 01.04.2024 that the representation was rejected by the competent authority. Hence, the present petition.

SUBMISSIONS OF THE PARTIES

3. Learned counsel for the petitioners relies upon the decision of the Supreme Court in *M. Nagraj v. Union of India*, (2006) 8 SCC 212¹ to contend that the backlog vacancies should be subject to a time-cap and de-reserved thereafter. The submission is that as per the 2023 advertisement, six seats were reserved for ST category candidates but none of the candidates qualified the examination. Reliance is placed on the Right to Information (RTI) query replied on 06.03.2024 wherein it is stated that no candidate from the ST category had been appointed in the DHJS since 2010.

4. Learned counsel for respondent no. 1 contends that the writ petition was filed claiming appointment on the basis of the waiting list but it no longer survives. The recruitment process pursuant to the 2023 advertisement is concluded. All selected candidates in the General category joined and no occasion arose for resorting to the waiting list.

4.1. It is submitted that in 2024, another advertisement for recruitment to the DHJS was issued and the selection process is also complete.

4.2. It is stated that in the 2026 recruitment to the DHJS, twenty-seven

¹ Paragraph No. 100



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vacancies were advertised, comprising seventeen vacancies in the General category, five in the SC category and five in the ST category and the backlog of ST category vacancies is only four. The preliminary examination has already been conducted in pursuance to this advertisement.

4.3. Reliance is placed on the decision of the Division Bench of this Court in ***Rabindra Tiwary v. Lt. Governor, Government of NCT of Delhi and Anr.***, 2023 SCC OnLine Del 189 to contend that de-reservation of vacancies reserved for SC/ST category candidates cannot be sought and that any vacancies de-reserved subsequently cannot be diverted to the selection process initiated pursuant to the impugned advertisement.

4.4. Reliance is also placed on Office Memorandum No. 36012/17/2002-Estt. (Res.) dated 06.11.2003 issued by the Department of Personnel and Training, Government of India (GoI) [for short 'OM'] which provides for the manner in which reserved category posts in 'direct recruitment' are to be dealt with and lays down the procedure for seeking de-reservation of such posts. The relevant portion is reproduced below: -

“3. If sufficient number of SC/ST/OBC candidates fit for appointment against reserved vacancies are not available, procedure as given below should be followed for filling up such reserved vacancies:

A. In cases of Direct Recruitment:

(i) Where sufficient number of candidates belonging to SC/ST/OBC are not available to fill up the vacancies reserved for them in direct recruitment, the vacancies shall not be filled by candidates not belonging to these communities. In other words, there is a ban on dereservation of vacancies reserved for SCs, STs and OBCs in direct recruitment.

(ii) If sufficient number of suitable SC/ST/OBC candidates are not available to fill up vacancies reserved for them in the first attempt of recruitment, a



second attempt shall be made for recruiting suitable candidates belonging to the concerned category in the same recruitment year or as early as possible before the next recruitment to fill up these vacancies. If the required number of SC/ST/OBC candidates are not even then available, the vacancies which could not be filled up shall remain unfilled until the next recruitment year. These vacancies will be treated as "backlog vacancies."

(iii) In the subsequent recruitment year when recruitment is made for the vacancies of that year (called the current vacancies), the backlog vacancies of SCs, STs and OBCs will also be announced for recruitment. While doing so it may be kept in view that the vacancies of the particular recruitment year i.e. the current vacancies and the backlog vacancies of OBCs will be treated as one group and backlog vacancies of SCs and STs as a separate and distinct group. Thus, there will be two distinct groups of vacancies. One group will contain the current vacancies and the backlog vacancies of OBCs, and the another group will contain backlog vacancies of SCs and STs. While in respect of vacancies in the first group instructions that not more than 50% of the vacancies can be reserved in a year will apply, all the backlog vacancies reserved for SCs and STs will be filled up by the candidates belonging to concerned category without any restriction whatsoever as they belong to distinct group of backlog vacancies of SCs and STs.

(iv) If vacancies reserved for SCs/STs/OBCs cannot be filled up and are carried forward as backlog vacancies and remain unfilled in the following recruitment year also, they will be carried forward as backlog vacancies for subsequent recruitment year(s) as long as these are not filled by candidates of the category for which these are reserved.

(v) There may be rare and exceptional cases in Group 'A' services, where posts cannot be allowed to remain vacant in public interest. In such situations, the administrative Ministry/Department under which the recruitment is being made shall make a proposal for dereservation giving full justification for such action, **and consult the National Commission for Scheduled Castes and Scheduled Tribes** in case of posts reserved for SCs/STs and the National Commission for Backward Classes in case of posts reserved for OBCs and obtain the comments of concerned Commission on each proposal. After obtaining the comments of the concerned Commission, the administrative Ministry/Department shall place the proposal for dereservation alongwith the Commission's comments before a Committee comprising the Secretaries in the Department of Personnel and Training, in the Ministry of Social Justice and Empowerment and in the Ministry/Department under which the recruitment is being made for consideration and recommendation. The recommendation of the Committee shall be placed before the Minister in charge of the Department



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of Personnel and Training for a final decision. If dereservation of the vacancies is approved, these can be filled by the candidate of other communities.”

[Emphasis supplied]

5. In rebuttal, learned counsel for the petitioners contends that the petitioners participated in the 2024 and 2026 DHJS Examinations. It is submitted that *albeit* respondent no. 1 had written to the Government of National Capital Territory of Delhi [for short ‘GNCTD’] for de-reservation of ST category posts on 23.05.2008, 13.03.2009 and 24.08.2009 in terms of the OM but the seats were not de-reserved.

6. Respondent no. 1 states that the aforesaid letters of the petitioners were rejected by the GNCTD *vide* letters dated 02.09.2008 and 20.10.2009 and there is a complete ban on de-reservation of the ST category seats in direct recruitment.

7. Heard the learned counsel for the parties at length and perused the relevant record with their able assistance. No issue other than those noted above was pressed.

ANALYSIS

8. It is an admitted fact that the waiting list forming the basis for seeking directions to respondent no. 1 to appoint the petitioners by de-reserving the seats from the ST category advertised in 2023 is eroded by efflux of time. The recruitment process is complete and the waiting list is no longer operative.

In fact, thereafter, the advertisement for the 2024 DHJS examination was issued and the recruitment process was completed. Further, the



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advertisement for the 2026 DHJS examination has been issued and the recruitment process is presently underway.

9. The petitioners have not pleaded in the writ petition the effect of the 2024 advertisement on the carry-forward of seats reserved for the ST category and the status of these seats after completion of the recruitment process of 2024. Similarly, the effect of the carry-forward of seats reserved for the ST category in the 2026 advertisement is also not pleaded. Despite passing of sufficient time no amendment was carried out and the 2023 & 2024 recruitment processes is completed.

10. During the course of the hearing, it was specifically put to learned counsel for the petitioners that in view of subsequent events including the participation of the petitioners in recruitment processes of 2024 and 2026 would have bearing on the relief prayed for and a fresh petition be filed by pleading all the facts. On instructions, learned counsel insists that the writ petition be decided on the basis of the existing pleadings and material on record.

11. We therefore proceed to examine the admissibility of the reliefs on the basis of the existing pleadings by taking into account the fact of the subsequent recruitment process of 2024 and the advertisement of 2026, to the extent it is available in the public domain. In the 2023 Examination, six seats were reserved for ST category candidates and none were filled. The petitioners have failed to place on record the number of the ST category seats that were carried forward in the 2024 advertisement and how many seats were filled in that recruitment process. This is important to note that



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relief sought in this petition would have a direct bearing on the candidates selected against the said ST category in the 2024 recruitment process and the candidates are not impleaded in the writ petition.

12. Be that as it may, the contents of the 2026 advertisement indicate that some of the ST category reserved vacancies from the 2023 advertisement were filled. The backlog in the 2026 advertisement is only for four vacancies and this would include backlog from the 2024 advertisement. This fact is fatal to the case set up by the petitioners that the seats reserved for the ST category candidates are not being filled up since 2010 and therefore ought to be de-reserved.

13. The interference in this writ petition at this stage, especially when there was no interim protection granted to the petitioners would affect not only the completed recruitment process of 2024 but would also impact the recruitment process for the ST category seats advertised in 2026. The candidates have applied in pursuance to the 2026 advertisement and appeared in the preliminary exam.

14. The argument of the counsel for the petitioners that respondent no. 1 had requested in 2008 to the Government for de-reservation of the ST category seats does not enhance the case of the petitioners. *Vide* letters dated 02.09.2008 and 20.10.2009, the GNCTD informed respondent no. 1 that the National Commission for Scheduled Tribes *vide* letter dated 21.08.2008, clarified that there is a complete ban on de-reservation in direct recruitment and attempts should be made to fill the posts reserved for ST category through direct recruitment on an all-India basis.



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15. The petitioners having participated in the subsequent recruitment process pursuant to the 2024 advertisement, without raising grievance regarding the number of seats reserved for ST category candidates and being unsuccessful cannot now seek to turn the clock back by seeking de-reservation of the posts reserved under the 2023 advertisement.

16. The Division Bench of this Court in **Rabindra Tiwary** (supra) held that the candidate has no right to seek de-reservation of the notified vacancies and even if seats are de-reserved these would be available for selection to be conducted in future and not the present advertisement. The issue of de-reservation is to be considered by respondent no. 1 independently. The relevant paragraph is reproduced hereinbelow: -

“20. The petitioner does not have any indefeasible right to be appointed to the Delhi Higher Judicial Service. We are unable to accept that any order or direction requires to be issued to the respondents for undertaking any exercise for de-reservation of vacancies reserved for candidates belonging to Scheduled Castes /Scheduled Tribes. In the event any such de-reservation of reserved vacancies is considered necessary by the respondents, on account of the same remaining unfilled over a long period of time, for want of the candidates meeting the qualifying criteria, the respondents may undertake the exercise for de-reserving such vacancies. In the event any such vacancies are de-reserved, the same would be available for being filled pursuant to the selection exercise conducted in the future. In any view, such vacancies cannot be made available for the selection process that commenced pursuant to the impugned advertisement. The vacancies, as advertised by the impugned notification, cannot be increased by diverting vacancies earmarked for the reserved category.”

[Emphasis supplied]

17. The reliance of learned counsel for the petitioners on the case of **M. Nagraj** (supra) is of no avail. The prayer in that case was to quash the retrospective insertion of Article 16(4-A) in the Constitution of India whereunder reservation was provided in promotion with consequential



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seniority. It was not a case of reservation in direct recruitment. It was held that after introduction of Article 16(4-B) the ceiling of 50% applies only for current vacancies and not for carried-forward vacancies. The unfilled vacancies to be filled by promotion may not be carried-forward indefinitely and in this context, it was observed that the Government would have to introduce a time-cap depending upon the facts of the case. Whereas in the present case, the vacancies are to be filled by direct recruitment and as discussed above the backlog in the 2026 advertisement for ST vacancies has come down to four and no case is made out of indefinite carry forward of vacant vacancies reserved for ST category.

18. No ground for interference is made out.
19. The petition is dismissed.
20. Pending application stands disposed of.

AVNEESH JHINGAN, J

MANMEET PRITAM SINGH ARORA, J

SEPTEMBER 18, 2026

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Reportable: Yes