

**HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU**

Reserved on 30.06.2026

Pronounced on 17.07.2026

Uploaded on 17.07.2026

Whether the operative part or full
Judgment is pronounced: **Full**

WP(C) No. 1279/2021(O&M)

Amit Kundal and others

.....Appellant(s)/Petitioner(s)

Through: Mr. Ankur Sharma, Advocate &
Ms. Himani Khajuria, Advocate

vs

Union of India and others

..... Respondent(s)

Through: Mr. Vishal Sharma, DSGI(Sr. Adv.) with
Mr. Karan Sharma, CGSC

CORAM: HON'BLE MR. JUSTICE RAJNESH OSWAL, JUDGE

JUDGMENT

1. Though the medium of the instant petition, the petitioners have sought the following reliefs:

- i) For quashing the select list dated 21.01.2021 issued vide advertisement notice dated 21.07.2018 with respect to the Border Security Force (BSF Post Code-A) of Jammu and Kashmir State/UT against the posts reserved for Border Guarding Districts Border Guarding Districts and Assam Rifle(AR) (Post Code-F) of the Jammu and Kashmir State/UT in which less meritorious candidates than the petitioners are selected in the open merit and the petitioners being higher in merit than the last selected candidate have been ignored;
- ii) For quashing the selection of the private respondents 3 to 50 who are less meritorious than the petitioners despite that selected in the open merit list of the Border Security Force (BSF) (Post Code-A) of Jammu and Kashmir State/UT against the posts reserved for Border Guarding Districts and Assam Rifle (AR) (Post Code-F) of the Jammu and Kashmir

State/UT conducted by respondent No. 2 and respondents No: 1 and 2 may kindly be directed to redraw the select list according to merit against the open merit list and then SC Category by Following the reservation policy.

iii) For selecting the petitioners in against the open merit or SC category of BSF (Post Code-A) Assam Rifle (Post Code-F), issue appointment letter and appoint the petitioners being higher in merit than the private respondents as well as other candidates selected in the open merit or SC category.

iv) Any other order or direction which this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the case in hand."

2. Respondent No. 2, vide Advertisement Notice dated 21.07.2018, invited applications for recruitment to the posts of Constable (General Duty) in the Central Armed Police Forces (CAPFs), the National Investigation Agency (NIA), the Secretariat Security Force (SSF), and Rifleman (General Duty) in the Assam Rifles. As per the Advertisement Notice, the recruitment process comprised a Computer-Based Examination, followed by the Physical Efficiency Test (PET), Physical Standard Test (PST), and Medical Examination. The petitioners successfully qualified the Computer Based Examination, as averred in paragraph 5 of the writ petition.
3. Pursuant to the Advertisement Notice, 10% vacancy quota was reserved for Ex-Servicemen and in the event of non-availability of qualified Ex-Servicemen, such vacancies were to be filled from the non-Ex-Servicemen candidates within their respective categories. Furthermore, because the vacancies were allocated to State/Union Territory (UT), the candidates were required to submit the Domicile or Permanent Resident Certificate for the corresponding State/UT indicated in their online application during the Detailed Medical Examination (DME) or Document Verification phase.

Failure to produce this certification would result in the immediate cancellation of candidature, thereby disqualifying the applicant from participating in the DME. As per the notice, relaxation of the upper age limit was permissible for SC, ST, OBC, Ex-Servicemen, and other designated categories in accordance with the prevailing Government orders referred in the eligibility criteria. Para 4(c)(i) of the Notice further provides that the candidate, who wish to be considered against the vacancies reserved/or seeking age relaxation are required to submit requisite certificate from the competent authority in the prescribed format.

4. The Physical Standard Test prescribed for the post of Constable/Rifleman mandated a minimum height of 170 cm for male candidates and 157 cm for female candidates belonging to the General, Scheduled Caste (SC), and Other Backward Classes (OBC) categories. An exception was carved out for Garhwalis, Kumaonis, Dogras, and Marathas, as well as candidates residing in the States of Assam, Himachal Pradesh, and Jammu and Kashmir, for whom the minimum required height for male candidates was fixed at 165 cm. Furthermore, the chest measurement standard prescribed for male candidates in the General, SC, and OBC categories was 80 cm unexpanded, with a mandatory minimum expansion of 5 cm.
5. The petitioners, who are the permanent residents of the Union Territory of Jammu and Kashmir and belong to the Scheduled Caste category, applied online for the post of Constable (General Duty) across all branches from (a) to (h). Upon qualifying the written examination, the petitioners were summoned for the Physical Efficiency Test and Physical Standard Test at BSF Camp Paloura, Jammu. During the Physical Measurement Test, the

petitioners were granted a relaxation on the strength of their status as permanent residents of the State/Union Territory of Jammu and Kashmir. The specific details of the relaxation granted to the petitioners are set forth below:

Petitioner No. 1	Height required for General, SC and OBC was 170 cms for male and for J&K State/UT 165 cms	Height measured 175 cms	Chest 80 to 85 cm required for J&K, 78-83 cm	Chest measured 78-83 cm (relaxation sought on the basis of PRC)
Petitioner No. 2	Height required for General, SC and OBC was 170 cms for male and for J&K State/UT 165 cms	Height measured 169 cms (relaxation sought on the basis of PRC)	Chest 80 to 85 cm required for J&K, 78-83 cm	Chest measured 88-93 cm
Petitioner No.3	Height required for General, SC and OBC was 170 cms for male and for J&K State/UT 165 cms	Height measured 167 cms(relaxation sought on the basis of Dogra of J&K)	Chest 80 to 85 cm required for J&K, 78-83 cm	Chest measured 81-86 cm
Petitioner No.4	Height required for General, SC and OBC was 170 cms for male and for J&K State/UT 165 cms	Height measured 167.5 cms(relaxation sought on the basis of PRC)	Chest 80 to 85 cm required for J&K, 78-83 cm	Chest measured 78-83 cm(relaxation sought on the basis of PRC)

6. The petitioners submit that the private respondents likewise sought and were granted relaxation, yet were selected by the official respondents despite having secured lower marks than the petitioners in the written examination. For the post code (A) and (F) for area (Code B) and (Code G) respectively, the cut-off marks for the unreserved category was 57.40899 and 58.02482, whereas the petitioner Nos. 1 to 4 had secured 59.32587, 59.05198 58.11991 and 59.28827 marks respectively.
7. The petitioners have assailed the select list on the ground that they were higher in merit and they were not given benefit in accordance with the

Reservation Statute. The petitioners, in fact, fulfilled the criteria of written and physical standard fixed for the candidates of UT of Jammu and Kashmir, and no other relaxation of whatsoever nature was sought by the petitioners on the basis of their Scheduled Caste Category, as such, the selection of the private respondents is bad in law.

8. The petitioners contend that the reservation policy was violated because reserved category candidates with superior marks were bypassed in favour of less meritorious Open Merit candidates. Specifically, in the BSF (Border Guarding District quota), the cut-off marks for the Open Merit was 57.40899, while the cut-off for the Scheduled Caste category was significantly higher at 60.11553. A similar disparity exists in the Assam Rifles selection list, where the last selected Open Merit candidate secured 58.02482 marks, compared to 60.32360 marks for the last Scheduled Caste candidate. By failing to accommodate these high-scoring reserved category candidates against the Open Merit, the official respondents have perversely turned the petitioners' superior merit into a disadvantage, directly violating established reservation principles.
9. The official respondents have filed a response detailing the participation of the four petitioners (Amit Kundal, Sahil Kumar, Chetan Kumar, and Ankesh Kumar) in the recruitment process, as set forth below:

S. No.	Events
1.	Physical Standard Test (PST) and Physical Efficiency Test (PET) of Sh. Amit Kundal (Roll No. 1004205939) was held at Frontier Hqr BSF Jammu on 31.08.2019. He had availed relaxation in chest being 78.83 cm and qualified in PST and PET. Further he was declared UNFIT in Detailed medical Examination on 17.01.2020 at GC, CRPF Bantalb, Jammu and in his Review medical examination carried out on 18.09.2020, he was declared FIT in it.

2.	PST & PET of Sh. Sahil Kumar (Roll No. 1004113775) was held at Frontier HQr BSF Jammu on 30/08/2019 . He had availed relaxation in Height being 169 Cms and qualified in PST & PET. Further he was declared UNFIT in Detailed Medical Examination on 16/01/2020 at GC, CRPF Bantalab, Jammu and in his Review Medical Examination carried out on 17/09/2020 at FTR HQr BSF Jammu and as per RME report dated 17/09/2020 , he was declared FIT in it.
3.	PST & PET of Sh. Chetan Kumar (Roll No. 1004118904) was held at Frontier HQr BSF Jammu on 30/08/2019 . He had availed relaxation in Height being 167 Cms and qualified in PST & PET. Further he was declared FIT in Detailed Medical Examination carried out on 16/01/2020 at GC, CRPF Bantalab, Jammu
4.	PST & PET of Sh. Ankesh Kumar (Roll No. 1004015903) was held at Frontier HQr BSF Jammu on 29/08/2019 . He had availed relaxation in Height being 167.5 Cms & chest being 78.83 cms and qualified in PST & PET. Further he was declared FIT in Detailed Medical Examination carried out on 14/01/2020 at GC, CRPF Bantalab, Jammu.

10. Respondents have admitted the marks secured by the petitioners. It is further mentioned that as per the Staff Selection Commission (SSC), Para No. 11(xiii) of the Notice, SC, ST, OBC and Ex-Serviceman candidates, who were selected on their own merit, without relaxed standards, along with candidates belonging to other communities, will not be adjusted against the reserved share of vacancies. Such candidates will be accommodated against the unreserved vacancies as per their position in the overall merit list. The reserved vacancies will be filled up separately from amongst the eligible SC, ST, OBC and Ex-Serviceman candidates. It is further stated that as per Para No. 11(xiv) of the Notice, the SC, ST, OBC and Ex-Serviceman candidate, who qualifies on the basis of relaxed standards, viz. Age limit, height and chest measurement, experience or qualifications, permitted number of chances, extended zone of consideration larger than what is provided for General Category candidate etc, irrespective of his/her merit position, such SC, ST, OBC and Ex-Serviceman candidates are to be counted against

reserved vacancies. Insofar as, cases of Ex-Serviceman are concerned, deduction of the military service rendered from the age of ex-serviceman is permissible against the reserved or unreserved posts and such exemption cannot be termed as relaxed standards in regard to age.

11. It is urged by the official respondents that respondent Nos. 3 to 50 are either unreserved or Scheduled Caste category candidates. The unreserved candidates among the respondents 3 to 50, qualified in all stages of the said examination and cleared the Final Cut-off in their respective category/State/Area. The SC category candidates among respondent Nos. 3 to 50 have not qualified in their respective category/State/Area, however, they have been considered against unreserved vacancies as they have not availed any height or chest relaxations and had met category cut-off, whereas the petitioners belong to reserved category (SC) and have availed height and chest relaxation or both and though, they have qualified in all stages of the said exam but could not clear the Final Cut Off in their respective category/State/Area, therefore, they cannot be considered under unreserved category.
12. Mr. Ankur Sharma, learned counsel for the petitioner has submitted that under Para 11(xiii) of the Notice, reserved category candidates (SC/ST/OBC/Ex-Servicemen) who qualify under general standards must be adjusted against unreserved vacancies, rather than the reserved quota. Having availed of no relaxation based on their Scheduled Caste status, the petitioners should have been considered for unreserved posts. Para 11(xiv) of the Notice cannot be applied against them, as the physical relaxation they

received was granted exclusively on account of their domicile in the Union Territory of Jammu and Kashmir, rather than their caste status.

13. *Per Contra*, Mr. Vishal Sharma, learned DSGI appearing for the official respondents, has submitted that the petitioners applied under the SC category and accepted physical relaxations. Para 11(xiv) of the Notice strictly mandates that they be counted against the reserved quota alone, barring any subsequent migration to unreserved vacancies. He has placed reliance upon the judgment of the Supreme Court reported in **Union of India v Sajib Roy, (2025) SCC online SC 1943**.
14. Heard and perused the record.
15. The official respondents have admitted the domiciliary status of the petitioners as residents of the Union Territory of Jammu and Kashmir. The physical standards prescribed for the post of Constable/Rifleman are set forth below:

III. Physical Standard Test (PST)

Physical standards laid down for the post of Constable/Rifleman are:

a. Height:	Height (in cms)	
	Male	Female
General, SC & OBC candidates (except those mentioned below)	170	157
Relaxations:		
The minimum height for all candidates belonging to Scheduled Tribes	162.5	147.5
The minimum height for all Schedule Tribe candidates hailing from the North-Eastern States of Arunachal Pradesh, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim & Tripura and Naxal/ Left Wing Extremism affected Districts	160	147.5
The Minimum height for the candidates falling in the categories of Garhwalis, Kumaonis, Dogras, Marathas and candidates belonging to the States of Assam, Himachal Pradesh and Jammu & Kashmir	165	155
The minimum height for the candidates hailing from North Eastern States of Arunachal Pradesh, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim and Tripura	162.5	152.5

The minimum height for the candidates hailing from Gorkha Territorial Administration (GTA) comprising of the three Sub-Division of Darjeeling District namely Darjeeling, Kalimpong and Kurseong and includes the following “Mouzas” Sub-Divisions of these Districts: (1) Lohargarh Tea Garden (2) Lohagarh Forest (3) Rangmohan (4) Barachenga (5) Panighata (6) Chota Adalpur (7) Paharu (8) Sukna Forest (9) Sukna Part-I (10) Pantapati Forest-1 (11) Mahanadi Forest (12) Champasari Forest (13) SalbariChhatpart-II (14) Sitong Forest (15) Sivoke Hill Forest (16) Sivoke Forest (17) Chhota Chenga (18) Nipania.	157	152.5
b. Chest:	Chest (in cms: unexpanded/minimum expansion)	
	Male	Female
General, SC & OBC male candidates (except those mentioned below)		
Relaxations:		
The minimum chest for all male candidates belonging to Scheduled Tribes	76/5	N/A
The minimum chest for male candidates falling in the categories of Garhwalis, Kumaonis, Dogras, Marathas and candidates belonging to the States of Assam, Himachal Pradesh and Jammu & Kashmir	78/5	N/A
The minimum chest for the candidates hailing from North Eastern States of Arunachal Pradesh, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim and Tripura and candidates hailing from Gorkha Territorial Administration (GTA) comprising of the three Sub-Division of Darjeeling District namely Darjeeling, Kalimpong and Kurseong and includes the following “Mouzas” Sub-Divisions of these Districts: (1) Lohargarh Tea Garden (2) Lohagarh Forest (3) Rangmohan (4) Barachenga (5) Panighata (6) Chota Adalpur (7) Paharu (8) Sukna Forest (9) Sukna Part-I (10) Pantapati Forest-1 (11) Mahanadi Forest (12) Champasari Forest (13) SalbariChhatpart-II (14) Sitong Forest (15) Sivoke Hill Forest (16) Sivoke Forest (17) Chhota Chenga (18) Nipania.	77/5	N/A

c. **Weight:** For male and female candidates: Proportionate to height and age as per medical standards.

Note-I: Chest measurement for Female candidates will not be taken. However, it should be ascertained that the chest is well developed.

Note-II Scrutiny of eligibility of candidates for relaxations i.e. age, height and chest measurement will be carried out after qualifying PET (race) before PST by CAPFs PET/ PST Boards. Relaxation in height and chest (as the case may be) as mentioned above will be permissible only

on production of certificate at the time of PST/ PET in the proforma as prescribed in Annexure-VIII from the competent authorities.

Note-III The candidates who are declared not qualified in Physical Standards, i.e. height and chest may prefer an appeal on same day, if they so desire, to the Appellate Authority nominated for the Centre through Presiding Officer (PO). The decision of the Appellate Authority will be final and no further appeal or representation in this regard will be entertained thereafter. There is no appeal in PET (Race).

Note-IV Conduct of PST/ PET and DME/ RME will be the sole responsibility of the CAPFs. The Commission will not entertain any representation/ appeal/ RTI Applications/ CPGRAMs against the decision of the PST/ PET and DME/ RME Board.

16. The petitioners were granted relaxations in physical standards as detailed above. Pursuant to the prescribed Physical Standard Test criteria, the candidates belonging to the Open Merit, Scheduled Caste (SC), and Other Backward Class (OBC) categories excluding Garhwalis, Kumaonis, Dogras, Marathas, and candidates residing in the States of Assam, Himachal Pradesh, and the Union Territory of Jammu and Kashmir, must possess a minimum height of 170 cm for males and 157 cm for females. Crucially, no relaxation in height or chest measurements is afforded to the candidates solely on account of their SC status. Instead, the lower minimum height requirement of 165 cm for males and 155 cm for females is restricted to categories such as Garhwalis, Kumaonis, Dogras, Marathas, and residents of Assam, Himachal Pradesh, and Jammu and Kashmir. Consequently, it is clear that the height relaxation extended to petitioner Nos. 2, 3, and 4 was attributable exclusively to their domicile in the Union Territory of Jammu and Kashmir, and was entirely unrelated to their caste status.
17. With respect to chest measurements, male candidates belonging to the Open Merit, Scheduled Caste (SC), Scheduled Tribe (ST), Other Backward Class (OBC), and Ex-Servicemen categories excluding Garhwalis, Kumaonis, Dogras, Marathas, and residents of the States of Assam, Himachal Pradesh,

and the Union Territory of Jammu and Kashmir, must possess a minimum chest measurement of 80 cm unexpanded, with a minimum expansion of 5 cm. In this regard as well, no relaxation is extended to candidates on account of their Scheduled Caste status. However, a relaxed standard of 78 cm unexpanded, with a 5 cm expansion, is specifically prescribed for male candidates who are residents of the Union Territory of Jammu and Kashmir. Thus, it is evident that petitioner Nos. 1 and 4 were granted chest relaxation solely by virtue of their domicile of the Union Territory of Jammu and Kashmir, independent of their caste category.

18. The relaxation granted to the residents of the Union Territory of Jammu and Kashmir applies uniformly across both unreserved and reserved categories. Consequently, the petitioners did not receive any benefit on account of their Scheduled Caste status, but rather on account of their domicile. As per Para No. 11(xiv) of the Notice, the SC, ST, OBC and Ex-Serviceman candidate, who qualifies on the basis of relaxed standards, viz. age limit, height and chest measurement, experience or qualifications, permitted number of chances, extended zone of consideration larger than what is provided for General Category candidate etc, irrespective of his/her merit position, such SC, ST, OBC and Ex-Serviceman category candidates are to be counted against reserved vacancies.
19. A conjoint reading of Paragraphs 11(xiii) and 11(xiv) of the Notice reveals that if candidates belonging to the Scheduled Caste (SC), Scheduled Tribe (ST), Other Backward Class (OBC), or Ex-Servicemen categories are selected on their own merit, without availing themselves of relaxed standards reserved exclusively for those categories, they must be accommodated

against unreserved vacancies. The respondents have failed to demonstrate that the petitioners were granted any relaxed standards beyond those generally available to the candidates outside the reserved categories (SC, ST, OBC, and Ex-Servicemen). Consequently, the official respondents cannot rely upon Paragraph 11(xiv) of the Notice to contend that merely because the petitioners applied under the SC category, they must be counted exclusively against the reserved quota.

20. The petitioners have not been granted the benefit of relaxation in height and chest measurements on account of their SC category status. As such, this Court is of the considered view that the petitioners' SC status has resulted in a distinct disadvantage to them. The distinction drawn by the official respondents in their response is discriminatory and directly contravenes Articles 14 and 16 of the Constitution of India. Consequently, the impugned action of the respondents is wholly unsustainable and cannot be countenanced in law.
21. The Gauhati High Court in case “**Jitendra Thakur and others Vs. Union of India and others**” in WP(C) No. 1681/2021, decided on 07.06.2022 has observed in para No.10 as under :-

“10. It is no more res integra that the state and its instrumentalities are within its jurisdiction and competence to prescribe relaxed standard for reserved category candidates, including on the basis of region. The relaxed standard in question as provided, are in respect of eligibility/qualifying standard, such as minimum measure in height and chest. These are the eligibility criterias/qualifying standard without which, a candidate is not qualified to participate in the other tests such as computer Proficiency Test, Physical Test, Written Examination etc. And the marks are awarded on the basis of performance in the said tests and not on the basis of the qualifying standards. Therefore, the final determination of rank in the select list is based on the marks obtained in the tests and not on the basis of relaxed qualifying standard. Thus, participating in the aforesaid tests and obtaining the marks don't have any nexus with the

relaxed standard, which is a general relaxation for all ST/SC candidates and candidates from North Eastern State.”

22. In similar circumstances, the Delhi High Court in “**Hemant Pokhriyal Vs. Staff Selection Commission and others**”, 2021 SCC ONLINE DEL 4591 held that relaxation given in height or chest are available to candidates from a specific region, whether the candidate belong to reserved or un-reserved category, cannot lead categorization of the candidates exclusively for SC,ST and OBC, ignoring their meritorious position amongst other category candidates.
23. The judgment relied upon by Mr. Vishal Sharma, learned DSGI in **Sajib Roy’s** case (supra), is not applicable in the present facts and circumstances of the case. The precedent cited by the respondents is distinguishable. In the said judgment, the candidate applied under the OBC category and utilized an age relaxation tied directly to that caste status. In the present case, however, the petitioners received no benefits based on their Scheduled Caste status. Instead, they received a relaxation based on their domicile, which was uniformly available to all applicants regardless of category.
24. This Court has no hesitation in holding that a grave injustice has been caused to the petitioners, who were excluded from selection despite possessing higher merit than the candidates selected by the official respondents. Ordinarily, the appointment of candidates possessing lower merit must be set aside. However, taking into consideration that the Union of India has expended substantial public funds on their training and that the said candidates have been in active service for the past five years, ousting them at

this late stage would be harsh and iniquitous, particularly since no fault can be attributed to them.

25. In terms of interim order passed by this Court dated 02.07.2021, the official respondents were directed not to operate the waiting list of four posts of Constable (GD) for Border Guarding Districts in BSF for Union Territory of J&K. Vide order dated 30.09.2024, the responders were directed to file an affidavit stating therein the total number of vacancies existing as on the date and as to whether the petitioner can be considered against the vacant posts of Constable (GD) for Border Guarding District in BSF for Union Territory of J&K or not. Affidavit in compliance to order (supra) was filed by the DIG (Adm) CRPF, O/o IGP, Jammu Sector, Bantalab, Jammu stating therein that no vacancy pertaining to Constable (GD) Examination 2018 exists as on date and the vacancies of Constable (GD) were forwarded to the next recruitment of the Constable (GD) Examination 2021. Thereafter, the recruitment for Constable (GD) for the year 2021 & 2022-23 has also been concluded.
26. In **“Gaurav Pradhan v. State of Rajasthan”, (2018) 11 SCC 352**, the Hon’ble Apex Court directed the official respondents therein, to issue appointment orders in favour of non-selected candidates against the existing vacancies and in case of non-availability of posts, to create supernumerary posts for their adjustment.
27. To balance the equities and ensure that the expenditure incurred by the Union of India in imparting training to the less meritorious candidates is not rendered wasteful, this petition is disposed of with the following directions:
- (i) The official respondents shall issue appointment orders in favour of the petitioners in case the vacancies are available and in case the

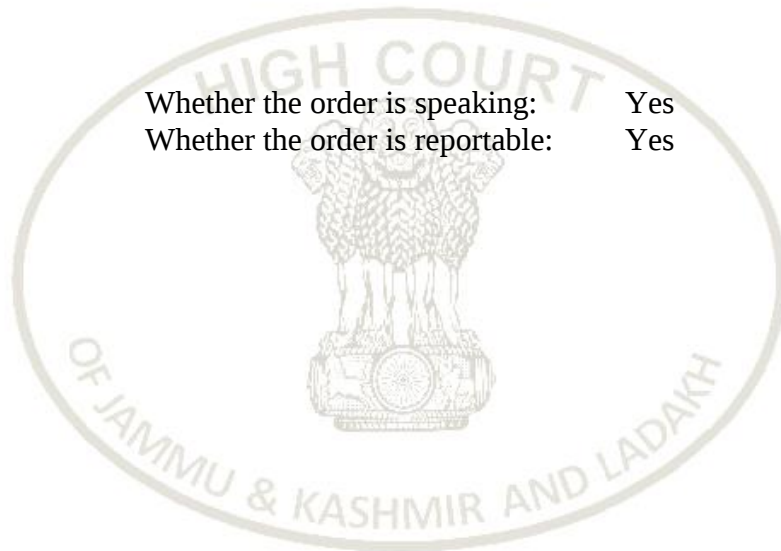
same are not available, the official respondents shall create supernumerary posts for their adjustment, provided there is no other legal impediment.

- (ii) The consequential order in this regard shall be passed within a period of three months from the date a copy of this judgment is furnished by the petitioners to the official respondents.

28. Disposed of.

(RAJNESH OSWAL)
JUDGE

Jammu
17.07.2026
Rakesh PS



Whether the order is speaking: Yes
Whether the order is reportable: Yes