



IN THE HIGH COURT OF ORISSA: AT CUTTACK

**W.A. Nos. 407, 406, 387, 394, 400, 401,
402, 403 & 404 of 2025**

In W.A No. 407 of 2025

Mahanadi Coalfields Ltd. and others **Appellants**

-Versus-

Chinmaya Pasayat and others **Respondents**

Advocates appeared in this case:

For Appellants : Mr. K.M. Nataraj, ASGI along with
Mr. Soumyajit Pani, Advocate,
Mr. S.D. Das, Senior Advocate along
with Mr. Haripad Mohanty, Advocate

For Respondents : Mr. Santosh Kumar Nanda, Advocate,

In W.A No. 406 of 2025

Mahanadi Coalfields Ltd. and others **Appellants**

-Versus-

Suvendu Kumar Patro and another **Respondents**

Advocates appeared in this case:

For Appellants : Mr. K.M. Nataraj, ASGI along with
Mr. Soumyajit Pani, Advocate,
Mr. S.D. Das, Senior Advocate along
with Mr. Haripad Mohanty, Advocate

For Respondents : Mr. Sameer Kumar Das, Advocate
(Respondent No.1)

Mr. Debasish Satapathy, CGC
(Respondent No.2)



In W.A No. 387 of 2025

Mahanadi Coalfields Ltd. and others **Appellants**
-Versus-
Ratnakar Nayak and another **Respondents**

Advocates appeared in this case:

For Appellants : Mr. K.M. Nataraj, ASGI along with
Mr. Soumyajit Pani, Advocate,
Mr. S.D. Das, Senior Advocate along
with Mr. Haripad Mohanty, Advocate

For Respondents : Mr. Biswajit Nayak, Advocate
(Respondent No.1)
Mr. Gopinath Sethi, Sr. Panel Counsel
(Respondent No.2)

In W.A No. 394 of 2025

Mahanadi Coalfields Ltd. and others **Appellants**
-Versus-
Mukesh Ranjan Gauda and another **Respondents**

Advocates appeared in this case:

For Appellants : Mr. K.M. Nataraj, ASGI along with
Mr. Soumyajit Pani, Advocate,
Mr. S.D. Das, Senior Advocate along
with Mr. Haripad Mohanty, Advocate

For Respondents : Mr. S.K. Ojha, Advocate
(Respondent No.1)
Mr. H.S. Panda, CGC
(Respondent No.2)



In W.A No. 400 of 2025

Mahanadi Coalfields Ltd. and others **Appellants**
-Versus-
Manoj Ranjan Khuntia and another **Respondents**

Advocates appeared in this case:

For Appellants : Mr. K.M. Nataraj, ASGI along with
Mr. Soumyajit Pani, Advocate,
Mr. S.D. Das, Senior Advocate along
with Mr. Haripad Mohanty, Advocate

For Respondents : Mr. D.P. Dhalsamanta, Advocate
(Respondent No.1)

Mr. D.P. Pattnaik, CGC
(Respondent No.2)

In W.A No. 401 of 2025

Mahanadi Coalfields Ltd. and others **Appellants**
-Versus-
Antriksh Jha and another **Respondents**

Advocates appeared in this case:

For Appellants : Mr. K.M. Nataraj, ASGI along with
Mr. Soumyajit Pani, Advocate,
Mr. S.D. Das, Senior Advocate along
with Mr. Haripad Mohanty, Advocate

For Respondents : Mr. Biswajit Samantray, Advocate
(Respondent No.1)



In W.A No. 402 of 2025

Mahanadi Coalfields Ltd. and others **Appellants**
-Versus-
Sudam Nahak and another **Respondents**

Advocates appeared in this case:

For Appellants : Mr. K.M. Nataraj, ASGI along with
Mr. Soumyajit Pani, Advocate,
Mr. S.D. Das, Senior Advocate along
with Mr. Haripad Mohanty, Advocate

For Respondents : Mr. Biswajit Nayak, Advocate
(Respondent No.1)

Mr. Karunakar Nayak,
Sr. Panel Counsel
(Respondent No.2)

In W.A No. 403 of 2025

Mahanadi Coalfields Ltd. and others **Appellants**
-Versus-
Sunil Kumar Seth and another **Respondents**

Advocates appeared in this case:

For Appellants : Mr. K.M. Nataraj, ASGI along with
Mr. Soumyajit Pani, Advocate,
Mr. S.D. Das, Senior Advocate along
with Mr. Haripad Mohanty, Advocate

For Respondents : Mr. Santosh Kumar Nanda, Advocate
(Respondent No.1)
Mr. Gopal Krishna Nayak, CGC
(Respondent No.2)



In W.A No. 404 of 2025

Mahanadi Coalfields Ltd. and others **Appellants**
-Versus-
Prabhakar Nayak and another **Respondents**

Advocates appeared in this case:

For Appellants : Mr. K.M. Nataraj, ASGI along with
Mr. Soumyajit Pani, Advocate,
Mr. S.D. Das, Senior Advocate along
with Mr. Haripad Mohanty, Advocate
For Respondents : Mr. Biswajit Nayak, Advocate
(Respondent No.1)

CORAM:
HON' BLE THE CHIEF JUSTICE
AND
HON'BLE MR. JUSTICE MURAHARI SRI RAMAN

J U D G M E N T

Date of hearing : 6th November, 2025
Date of Judgment : 28th January, 2026

HARISH TANDON, C.J.

1. The batch of writ appeals filed by the appellants are taken up analogously as the challenges made to a judgment dated 17.12.2024 passed by the Single Bench disposing of several writ petitions (W.P.(C) Nos. 459 of 2016, 6592 of 2016, 22915 of



2015, 23063 of 2015, 18652 of 2016, 15241 of 2016, 23061 of 2015, 568 of 2016 & 22914 of 2015, vide order dated 17.12.2024) involving the common issue. It would invite the repetition of facts which are identical in nature and, therefore, in order to avoid the prolixity of repetitions, the salient features which appear to us common in all cases are succinctly narrated in order to address the issues raised in the instant appeals.

2. An employment notice under reference No, MCL/ MP&R/ Recruitment/2014/166 dated 19.02.2014 was published in Odia and English daily newspapers for inviting applications from the Indian nationals to fill up the specified vacancies arisen in Security Guard T&S Grade G earmarking a total number of vacancies to 303, out of which 43 posts were reserved for SC, 66 for ST, 36 for OBC and 158 for general candidates. It was also expressly indicated in the said advertisement that the reservation shall also be provided for Handicapped and Ex-Servicemen in terms of the rules/guidelines issued by the Government of India. The recruitment process was divided into two parts, namely written test and interview with the rider that the candidates shortlisted in the written test shall only be allowed



to appear for interview. The age limit for different categories was also provided in the said advertisement for different categories of the persons subject to production of the relevant documents in proof thereof. 25219 numbers of applications were received and admittedly all the respondents in the batch of writ appeals applied for the said post in different categories and were permitted to appear in the written test held on 21.12.2014. All the respondents qualified in the written test and they were called for the interview and thereafter a final merit list was published where their names were not included therein. All the respondents challenged the process of the recruitment, more particularly after noticing the Note No.2 appended to the said select list wherein it was stated that the reservation for Ex-Servicemen has been applied in terms of the Government of India Guidelines and earmarked 24.5 % reservations. The challenge was further founded upon in creating a vertical reservation to Ex-Servicemen instead of horizontal reservation as such exercise resulted into the total reservation exceeding 50%, which is impermissible in law, more particularly the judgment of the constitution bench of the Apex Court rendered in *Indira Sawhney v. Union of India* reported in (2000) 1 SCC 168.



3. On the conspectus of the aforesaid facts and having found a *prima facie* case is made out, the writ petitions filed by respective respondents in the batch of aforementioned appeals were admitted and the appellants were called upon to file affidavit disclosing their stand to the contentions raised in the respective writ petitions. The gist of the stand taken by the appellants before the writ court was primarily based upon an assertion that the said advertisement widely published in the newspapers includes a provision for 24.5 % reservation for Ex-Servicemen in terms of the circular dated 04.06.2014 issued by the Ministry of Defence and all the writ petitioners being aware of the same participated in the selection process without any demur and, therefore, are precluded from challenging the validity of the said selection procedure. The appellants took the further stand that mere omission to provide details of the reservation being inconsequential cannot vitiate the entire selection process. In addition to the above, on factual matrix, a specific stand was taken by the appellants that since the writ petitioners could not secure the cutoff marks earmarked for different categories, they cannot take a rebound and challenge the selection process.



4. On the backdrop of the aforesaid facts, the Single Bench disposed of the batch of writ petitions with the categorical finding that the circular dated 04.06.2014 issued by the Ministry of Defence mandating 24.5 % reservation for the Ex-Servicemen, constitute a special character which is fundamentally distinct from the social reservation ordained in the Constitution of India. This is primarily aimed to address the historical injustice and disadvantages suffered by the distinct class of persons. It is further held that the decision to provide reservation to Ex-Servicemen is to honour the benefit to those classes of persons who have served the nation and, therefore, such reservation should be applied on a horizontal basis and not on vertical basis. The Single Bench took note of various judgments of the apex court, more particularly, rendered in the case *Anil Kumar Gupta v. State of Uttar Pradesh*, reported in 1995 (5) SCC 173, *Rajesh Kumar Daria v. Rajasthan Public Service Commission*, reported in (2007) 8 SCC 785, *Saurav Yadav v. State of Uttar Pradesh*, reported in (2021) 4 SCC 542 and held that horizontal reservation, in reality, aimed to cut across vertical reservation to accommodate the Ex-Servicemen within their vertical categories, i.e. General, SC, ST and OBC without disturbing the basic fabric of reservation structure. It is further held



that the Ex-Servicemen candidates of different categories have been adjusted in the general category not on the basis of merit as the cut-off marks earmarked for such Ex-Servicemen were much below the other candidates of the general category, which leads to an inescapable conclusion that the appellants applied Ex-Servicemen category on a vertical basis and not on horizontal basis. Ultimately the Single Bench disposed of the writ petitions with the following directions:-

“26. Based on the aforementioned analysis of both factual and legal aspects, it is hereby directed that the candidature of the petitioners shall be reconsidered in a fresh recruitment exercise.

27. The said process shall be conducted without displacing or jeopardizing the appointments of Ex-Servicemen who were erroneously appointed by the Opposite Party against these posts. Such appointments of the Ex-Servicemen shall be regularized by creating supernumerary posts. The petitioners, upon their appointment pursuant to this order, shall be accorded seniority over those Ex-Servicemen occupying the supernumerary posts.

28. The entire exercise shall be completed expeditiously and in accordance with rules of recruitment.”

5. Mr. Nataraj, learned Additional Solicitor General appearing for the appellants fairly conceded that a gross mistake has been



committed in providing a vertical reservation for the Ex-Servicemen which ought to be done on horizontal basis and, therefore, the proposition of law laid down in the impugned judgment rendered by the Single Bench cannot be faulted with. He fairly submitted that 74 posts of general category which constitute 24.5 % of the entire vacancy earmarked for said category were filled up with the Ex-Servicemen candidates and the rest were offered to non Ex-Servicemen which manifestly indicate the vertical reservation, which is a mistake committed by the appellants. He further submitted that several candidates who were offered the post as their names were included in the final select list did not join. As a resultant effect, it remained unfilled and, therefore, some of the writ petitions/respondents can be accommodated. Learned Additional Solicitor General submitted a chart depicting the vacancies which were unfilled and fairly conceded that only three writ petitioners/respondents can at best be accommodated having secured the cutoff marks in the left out vacancies. He fervently submitted that the Ex-Servicemen candidates who have already joined and are discharging their duties for such a long time cannot be thrown out of the employment as it would invite anomalous situation.



6. On the other hand, the counsel representing the respective writ petitioners/respondents in the batch of the writ appeals refuted the contention of learned Additional Solicitor General, precisely on the stand that only three of the writ petitioners at best can be given appointment, when the number of unfilled vacancies exceeds the number of writ petitioners/respondents and, therefore, those can be accommodated without disturbing the appointment of the Ex-Servicemen. All the counsel appearing for the respective writ petitioners/respondents echoed that the judgment of the Single Bench does not invite interference as the entire process of selection is undisputedly contrary to the principles of reservation, more particularly when the reservation for Ex-Servicemen is applied on vertical basis and not on horizontal basis. Lastly it is submitted that since 65 vacancies remained unfilled, the writ petitioners/respondents can be accommodated, which would not be illegal as the other candidates who did not approach the court challenging the process of selection are not entitled to any equity as the fence-sitters shall not be permitted to claim any benefit of the judgment rendered in case of similarly situated persons having acquiesced their right in this regard.



7. The fulcrum of the entire arguments as narrated hereinabove are not pointer to the issue pertaining to vertical reservation for the Ex-Servicemen which ought to have been done in horizontal manner in terms of the circular dated 04.06.2014 issued by the Ministry of Defence, which has been decided by the Single Bench, but is centred around the eligibility of some of the writ petitioners, who may or may not come within the zone of appointment. The nuances of horizontal reservation and vertical reservation have been succinctly explained in the Constitution Bench decision rendered in the case of *Indira Sawhney* (supra), wherein it is held that horizontal reservations in effect cut across the vertical reservations and, therefore, is known in the legal parlance as interlocking reservation in the following:

“812. ... There are two types of reservations, which may, for the sake of convenience/ be referred to as ‘vertical reservations’ and ‘horizontal reservations’. The reservations in favour of Scheduled Castes, Scheduled Tribes and other backward classes [under Article 16(4)] may be called vertical reservations whereas reservations in favour of physically handicapped [under clause (1) of Article 16] can be referred to as horizontal reservations. Horizontal reservations cut across the vertical reservations — what is called interlocking reservations. To be more precise, suppose 3% of the vacancies are reserved in



favour of physically handicapped persons; this would be a reservation relatable to clause (1) of Article 16. The persons selected against this quota will be placed in the appropriate category; if he belongs to SC category he will be placed in that quota by making necessary adjustments; similarly, if he belongs to open competition (OC) category, he will be placed in that category by making necessary adjustments. Even after providing for these horizontal reservations, the percentage of reservations in favour of backward class of citizens remains — and should remain — the same. This is how these reservations are worked out in several States and there is no reason not to continue that procedure.”

8. In **Anil Kumar Gupta** (supra), after the initial notification for filling up the posts in all the medical colleges, a corrigendum was issued that the horizontal reservation be granted to all medical colleges of the total seats of all the courses, which was sought to be interpreted in different ways by the parties. The Government was found to have blurred the distinction between overall horizontal reservation and compartmentalised horizontal reservation, which resulted into deprivation of many eligible candidates and in order to resolve such aspect, the apex Court held:

“17. It would have been better and the respondents may note this for their future guidance that while providing horizontal reservations, they should specify whether the horizontal reservation is a



compartmental one or an overall one. As a matter of fact, it may not be totally correct to presume that the Uttar Pradesh Government was not aware of this distinction between "overall horizontal reservation" and "compartmentalised horizontal reservation", since it appears from the judgment in Swati Gupta that in the first notification issued by the Government of Uttar Pradesh on May 17, 1994, the thirty per cent reservation for ladies was split up into each of the other reservations. For example, it was stated against backward classes that the percentage of reservation in their favour was twenty seven per cent but at the same time it was stated that thirty per cent of those seats were reserved for ladies. Against every vertical reservation, a similar provision was made, which meant that the said horizontal reservation in favour of ladies was to be a "compartmentalised horizontal reservation". we are of the opinion that in the interest of avoiding any complications and intractable problems, it would be better that in future the horizontal reservations are compartmentalised in the sense explained above. In other words, the notification inviting applications should itself state not only the percentage of horizontal reservation(s) but should also specify the number of seats reserved for them in each of the social reservation categories, viz., ST., S.C., O.B.C. and O.C. If this is not done there is always a possibility of one or the other vertical reservation category suffering prejudice as has happened in this case. As pointed out hereinabove, 110 seats out of 112 seats meant for special reservations have been taken away from the O.C. category alone and none from the O.B.C. or for that matter, from S.C. or S.T. It can well happen the other way also in a given year."



9. The apex Court in *Saurav Yadav* (supra) was considering a question whether the state has committed an error in not considering the claim of OBC-female and SC-female candidates against the post meant for the general female candidates on the basis of the merit and held:

“22.

13. There cannot be any dispute with the proposition that if a candidate is entitled to be admitted on the basis of his own merit then such admission should not be counted against the quota reserved for Scheduled Caste or Scheduled Tribe or any other reserved category since that will be against the constitutional mandate enshrined in Article 16(4).”

44. Having come to the conclusion that the Appellant No.1 and similarly situated candidates had secured more marks than the last candidates selected in ‘Open/General Category’, the logical consequence must be to annul said selection and direct the authorities to do the exercise de novo in the light of conclusions arrived at by us. However, considering the facts that those selected candidates have actually undergone training and are presently in employment and that there are adequate number of vacancies available, we mould the relief and direct as under:-

44.1 All candidates coming from ‘OBC Female Category’ who had secured more marks than 274.8928, i.e. the marks secured by the last candidate appointed in ‘General Category–Female’ must be offered employment as Constables in Uttar Pradesh Police.



44.2 *Appropriate letters in that behalf shall be sent to the concerned candidates within four weeks.*

44.3 *If the concerned candidates exercise their option and accept the offer of employment, communications in that behalf shall be sent by the concerned candidates within two weeks.*

44.4 *On receipt of such acceptance, the codal and other formalities shall be completed within three weeks.*

44.5 *Letters of appointment shall thereafter be issued within a week and the concerned candidates shall be given appropriate postings.*

44.6 *For all purposes, including seniority, pay fixation and other issues, the employment of such candidates shall be reckoned from the date the appointment orders are issued.*

44.7 *The employment of General Category Females with cut off at 274.8928 as indicated by the State Government in its affidavits referred to in paragraphs 5 and 8 hereinabove are not to be affected in any manner merely because of this judgment.”*

10. The bench in case of **Saurav Yadav** (supra) also took note of the earlier judgment of the apex Court rendered in **Rajesh Kumar Daria** (supra), wherein it was observed:

9. *...Social reservations in favour of SC, ST and OBC under Article 16(4) are “vertical reservations”. Special reservations in favour of physically handicapped, women, etc./ under Articles 16(1) or 15(3) are “horizontal reservations”. Where a vertical reservation is made in favour of a Backward*



Class under Article 16(4), the candidates belonging to such Backward Class, may compete for non-reserved posts and if they are appointed to the non reserved posts on their own merit, their number will not be counted against the quota reserved for respective Backward Class. Therefore, if the number of SC candidates, who by their own merit, get selected to open competition vacancies, equals or even exceeds the percentage of posts reserved for SC candidates, it cannot be said that the reservation quota for SCs has been filled. The entire reservation quota will be intact and available in addition to those selected under open competition category. (Vide Indra Sawhney [1992 Supp (3) SCC 217 : 1992 SCC (L&S) Supp 1 : (1992) 22 ATC 385] , R.K. Sabharwal v. State of Punjab [(1995) 2 SCC 745 : 1995 SCC (L&S) 548 : (1995) 29 ATC 481] , Union of India v. Virpal Singh Chauhan [(1995) 6 SCC 684 : 1996 SCC (L&S) 1 : (1995) 31 ATC 813] and Ritesh R. Sah v. Dr. Y.L. Yamul [(1996) 3 SCC 253] .) But the aforesaid principle applicable to vertical (social) reservations will not apply to horizontal (special) reservations. Where a special reservation for women is provided within the social reservation for Scheduled Castes, the proper procedure is first to fill up the quota for Scheduled Castes in order of merit and then find out the number of candidates among them who belong to the special reservation group of "Scheduled Caste women". If the number of women in such list is equal to or more than the number of special reservation quota, then there is no need for further selection towards the special reservation quota. Only if there is any shortfall, the requisite number of Scheduled Caste women shall have to be taken by deleting the corresponding number of candidates from the bottom of the list relating to Scheduled Castes. To this extent, horizontal (special) reservation differs from vertical (social) reservation. Thus women selected on merit



within the vertical reservation quota will be counted against the horizontal reservation for women.”

11. The law enunciated in the above reports have uniformly held that applying the principles of horizontal reservation, the intention is to cut across the vertical reservation and, therefore, the reservation for Ex-Servicemen cannot be done in a vertical manner, but should be adjusted in the respective category of the vertical reservation without disturbing the fabric of the reservation structure. Even Rule-3 of the Ex-Servicemen (Re-employment in Central Civil Services and Posts) Rules, 1979 is also indicative of the fact that the selection of Ex-Servicemen should be done in the vacancies earmarked for the vertical categories except when they secure higher marks on merit. It is undisputed in the instant case that the appellants have lowered down the cut-off mark for ESM-General candidates at 31.5 whereas fixed the cut off mark for other candidates of general category at 42.5. Such exercise is galore and leads to an inescapable conclusion that those Ex-Servicemen have been put on the basis of vertical reservation undermining the merit in a particular category.

12. More than a decade has elapsed as the issues were travelling in the peripheral of the docket of the Court and it would be true too



harsh at this juncture to disturb their appointments as some of them would be out of the zone of the appointment.

13. We do not find any incongruity, infirmity and/or illegality in the ultimate direction passed by the Single Bench taking a holistic approach in passing a direction keeping in mind that those Ex-Servicemen candidates who have already been appointed should not be thrown out of such appointment. Apart from the above, the unfilled vacancies are more than the writ petitioners who have timely approached the Court flagging an issue and, therefore, the appellants would take the above aspects into account and will undertake the exercise as directed by the Single Bench.

14. We, thus, do not find any infirmity in the decision of the Single Bench. The writ appeals are devoid of merit and accordingly dismissed. Pending I.A., if any, is disposed of. No cost.

(Harish Tandon)
Chief Justice

(M. S. Raman)
Judge

Arun Mishra