2026 INSC 1201

REPORTABLE

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

MISCELLANEOUS APPLICATION NO(S). 3313 – 3315 OF 2026
[@ Diary No. 51879 of 2026]
in
C.A. Nos. 2827 – 2829 of 2018

UNION OF INDIA & OTHERS .... APPLICANTS

VERSUS

ROHITH NATHAN AND ANOTHER, ETC. ... RESPONDENTS

WITH

MISCELLANEOUS APPLICATION NO(S). 3316 – 3318 OF 2026
[@ Diary No. 51897 of 2026]

O R D E R

1. Delay condoned in both applications.

2. The present Miscellaneous Applications have been filed by the applicants / appellants, namely, the Union of India and others, seeking the following reliefs:

M.A. Diary No.51879 of 2026

(i) Permit the applicants to proceed with the finalisation of service allocation to candidates recommended by the Union Public Service Commission (UPSC) in the Civil Services Examination, 2025 (CSE-2025) on the basis of the principles for determination of OBC creamy-layer status applied by the applicants prior to 11.03.2026; and

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Digitally signed by Jayant Kumar Arora
Date: 2026.04.11.06 14:50:14 IST
Reason:

(ii) Pass such other order(s) or direction(s) as this Court may deem fit and proper in the facts and circumstances of the case, in the interest of justice.

M.A. Diary No.51897 of 2026

(i) Clarify/direct that the judgment dated 11.03.2026 shall not apply retrospectively so as to reopen completed selections, appointments, service allocations, cadre allocations, seniority positions or admissions made in accordance with the laws, rules, instructions and eligibility conditions prevailing at the relevant time;

(ii) Permit the applicants a reasonable period of two years to undertake the exercise of establishing equivalence of posts, after consultation with the concerned stakeholders including all States and Union Territories, and to formulate an appropriate and uniform policy/mechanism for determining OBC creamy-layer status in respect of categories for which such equivalence had not yet been established;

(iii) Direct that candidates participating in examination/recruitment processes which were already underway as on 11.03.2026 may, for the relevant examination/recruitment cycle, be governed by the eligibility conditions and declarations applicable on the relevant cut-off date;

(iv) Clarify/direct that the judgement dated 11.03.2026 shall not be applied retrospectively so as to unsettle completed admissions to higher

educational institutions, completed academic sessions, degrees already conferred or settled rights of students; and

(v) Pass such further or other order(s)/direction(s) as this Court may deem fit and proper in the facts and circumstances of the case.

3. Before proceeding further, it would be appropriate to briefly set out the background facts and the judgment dated 11.03.2026 passed by this Court in Civil Appeal Nos. 2827 – 2829 of 2018, etc.

3.1. The respondent candidates had successfully cleared the Civil Services Examinations. However, since the equivalence of posts in Public Sector Undertakings, Banks, and other organisations vis-à-vis Government posts had not been formally determined, the Department of Personnel and Training (DoPT) applied the Income/Wealth Test under Category VI of O.M. No.36012/22/93-Estt (SCT) dated 08.09.1993 (1993 OM) read with clarificatory letter No. 36033/5/2004-Estt. (Res.) dated 14.10.2004 (2004 Letter). Upon assessing the income of the respondents' parents, who were employed in Public Sector Undertakings (PSUs) for the preceding three financial years, the DoPT classified them as falling within the creamy layer of the Other Backward Classes (OBC) thereby rendering them ineligible for the benefits of reservation under the OBC (Non-Creamy Layer) category. Consequently, their cases were not considered for service allocation under the reserved category.

3.2. Aggrieved thereby, the respondent candidates approached the Central Administrative Tribunal (CAT) and obtained orders in their favour. The writ

petitions filed by the appellants challenging the said orders were dismissed by the High Courts of Madras, Delhi and Kerala.

3.3. Challenging the aforesaid decisions, the applicants/appellants preferred Civil Appeal Nos.2827-2829 of 2018 etc., before this Court. In addition, several candidates who had successfully cleared the Civil Services Examinations in different years, and whose applications, representations or proceedings were pending consideration before the DoPT, the CAT, or the High Courts, sought permission to intervene in the proceedings and prayed for appropriate reliefs.

3.4. By judgment dated 11.03.2026, this Court dismissed the civil appeals and directed the applicants/appellants to consider the claims of the respondent candidates and the intervenors in accordance with the principles laid down in the judgment, and to implement the same within six months.

4. **Mr. Tushar Mehta,** learned Solicitor General, appearing for the applicants / appellants submitted that retrospective implementation of the judgment dated 11.03.2026 would have far-reaching consequences for recruitment, service and cadre allocation, seniority, admissions to Higher Educational Institutions. Referring to CSE-2025, he pointed out that the final result had been declared on 06.03.2026, five days prior to the judgment, on the basis of the prevailing interpretation of the 1993 OM, as clarified by the 2004 Letter. Retrospective application would unsettle the completed selection process, prejudice candidates who had relied upon the existing instructions and disrupt service and cadre allocations, including those made in respect of earlier Civil Services Examination

batches. He further highlighted the potential impact on more than 6.69 lakh reserved vacancies, including 3.70 lakh OBC vacancies, filled over the preceding ten years across various Government departments and public institutions as well as the consequential effects on seniority, pay, promotional prospects and the Foundation Course for CSE-2025 candidates.

4.1. The learned Solicitor General further submitted that the judgment had triggered additional litigation, including claims by similarly situated candidates who were not parties to the Civil Appeals, thereby necessitating a wider examination of its consequences. Relying upon the doctrine of prospective overruling recognised by this Court, *inter alia*, in ***Indra Sawhney v. Union of India [1992 Supp (3) SCC 217]***, he contended that this Court could mould the relief under Articles 32, 141 and 142 of the Constitution to protect concluded transactions and bona fide reliance on the prevailing legal position. Accordingly, he prayed that the judgment dated 11.03.2026 be directed to operate prospectively and that the Union of India be granted two years to undertake the exercise of establishing equivalence of posts and formulating a comprehensive policy, so as to avoid administrative disruption while balancing the competing rights.

5. **Mr. Prateek K Chadha,** learned counsel appearing for Respondent No. 1 (Rohith Nathan), submitted that the present Miscellaneous Applications sought to deprive eligible OBC candidates of reservation benefits while favouring the children of serving Government Officers. He contended that the selection process had been made subject to the outcome of the proceedings by order dated

28.11.2016 in WP(C) No.914 of 2016, and that the Union could not rely on delays, jurisdictional objections or administrative difficulties, particularly when it had repeatedly sought adjournments and failed to justify the impugned policy despite assurances before this Court and Parliament. He further submitted that the issues raised had already been considered in the judgment dated 11.03.2026 and that the applications were an attempt to circumvent review jurisdiction and seek a rehearing. He contended that the Union's failure to undertake the equivalence exercise despite longstanding assurances, could not prejudice the respondent candidates and accordingly sought dismissal of the applications.

6. **Mr. P. Wilson**, learned senior counsel referred to the case of *Malavekar Rohit Tukaram*, a Category IIC candidate whose parents' salary income exceeded Rs.8 lakhs, yet who was recommended for CSE-2025 on the basis of a valid OBC-NCL certificate and provisionally appointed to the Indian Forest Service. He submitted that this demonstrated inconsistent application of the criteria and warranted implementation of the judgment without dilution.

7. **Ms. Karina Chawla,** learned counsel appearing for Respondent No.3 (G. Babu) submitted that the Union had failed to explain the 166-day delay in filing the applications shortly before the expiry of the six-month implementation period, despite having assured the CAT, Principal Bench, New Delhi, on 19.08.2026 in ***C.P.No.263 of 2026*** that the judgment would be implemented in letter and spirit for 56 candidates. She pointed out that service allocations had subsequently been made without including salary income for similarly situated

candidates and contended that the judgment required uniform application of the 1993 OM read with the 2004 Letter. She submitted that the inconsistent treatment of Category IIC candidates and Government employees could be avoided by implementing the UPSC recommended list dated 06.03.2026 in full, particularly when results in NEET, CDS, AIIMS, JEE, SSC and IFoS had been declared without similar difficulties. On maintainability, she contended that Miscellaneous Applications in disposed-of proceedings could be entertained only where subsequent events rendered implementation impossible, relying on ***Jaipur Vidyut Nitran Nigam Ltd v. Adani Power Rajasthan Ltd. [2024 SCC OnLine SC 313], Ajay Kumar Jain v. State of UP [2024 SCC OnLine SC 3677],*** and this Court's Circular dated 03.01.2025.

8. **Mr. Sanjay Hegde**, learned senior counsel appearing for the applicants / intervenors (Yashvardhan Singh and others) submitted that the intervenors, having cleared all three stages of CSE-2025 and holding valid OBC-NCL certificate, figured in the UPSC recommended list dated 06.03.2026. He contended that their certificates could not be reopened by including salary income contrary to the principles laid down in the judgment dated 11.03.2026. Implementation of the judgment would not necessitate creation of supernumerary posts, whereas reopening the list would cause uncertainty and further litigation. He further submitted that non-parties to the Civil Appeals could not be prejudiced without an opportunity of hearing and that their individual claims and remedies must be independently considered in accordance with law.

9. **Miss. Gauraan**, learned counsel appearing for the applicant / intervenor (M. Sindhuja) submitted that the intervenor, who secured All India Rank 458 in CSE-2022, was denied service allocation on creamy-layer grounds. The CAT by order dated 13.05.2026 in OA No.3695 of 2025, allowed her application relying on the judgment in *Rohith Nathan* and the 1993 OM, which order the Union had neither complied with nor challenged. It was contended that the present applications indirectly sought to defeat the benefit of the CAT's final order and that the Union, if aggrieved, ought to have availed itself of the remedies available in law before the appropriate forum.

10. We have considered the extensive submissions advanced on behalf of all parties and carefully perused the material placed on record, including the rejoinders and the accompanying documents filed on behalf of the applicant/Union of India.

11. At the outset, it is necessary to clarify the scope of the present Miscellaneous Applications. The issue is confined to delineating the ambit of the operative directions issued in the judgment dated 11.03.2026 and clarifying the temporal application of the principle laid down therein. We entertain them for the said limited purpose. These applications do not warrant adjudication of any fresh cause of action or reconsideration of claims already decided. It is made clear that the interpretation of the 1993 OM and the 2004 Letter, the rejection of mechanical exclusion based on salary income and the relief granted to the successful litigants

are not open to reconsideration in these proceedings. Any submission seeking a different interpretation of the salary provisions cannot, therefore, be entertained.

11.1. A distinction must be drawn between the adjudication of individual claims and the application of the legal principle declared while deciding those claims. The original proceedings concerned identified candidates whose claims had been adjudicated by the respective Tribunals, High Courts and this Court. The adjudication was *inter partes*, and the operative relief was confined to the parties to the said *lis*, including the intervenors. The direction concerning the creation of supernumerary posts must necessarily be understood in that context.

11.2. This Court was also conscious of the interdependent nature of recruitment and promotion arrangements, involving eligibility, reservation rosters, comparative merit, service allocation, cadre strength and seniority. Reopening a concluded selected process after a substantial interval may prejudice numerous other persons and disrupt successive stages of service administration. The retrospective application of the principle may also unsettle promotions already granted and disturb the seniority of employees. The need to protect completed arrangements and facilitate an orderly transition must, therefore, inform the determination of the temporal consequences of the judgment.

11.3. The judgment cannot be construed as directing a general revision of service allocations or seniority across successive recruitment years, nor does it confer individual relief upon persons who were not parties to the original proceedings. The binding force of the legal principle enunciated by this Court under Article

141 of the Constitution is, however, distinct from the scope of the operative relief. The distinction between the binding legal principle and the relief granted to the parties must, therefore, be borne in mind while examining the scope and temporal operation of the directions contained in the judgment.

12. Having delineated the scope of the present Miscellaneous Applications and the distinction between the binding legal principle and the operative relief, it is necessary to examine the observations and directions contained in Paragraphs 42, 43 and 44 of the judgment dated 11.03.2026 passed in CA Nos.2827-2829 of 2018, etc., which form the subject matter of the present applications. For ease of reference, the said paragraphs are reproduced below:

> *"42. As regards the intervention applications, we find that several candidates who were successful in the Civil Services Examination of different years sought permission to intervene the present proceedings to advance their respective contentions. They submit, in substance, contentions similar to those urged by the respondent candidates in the civil appeals, asserting that they belong to the Non-Creamy Layer of the Other Backward Classes. It is their case that their applications, representations, or proceedings are presently pending consideration before the Department of Personnel and Training (DoPT), the High Courts or the Central Administrative Tribunal, and that any decision rendered in the present batch of matters would have a direct bearing upon their entitlement. Accordingly, they seek appropriate orders in the present proceedings.*
>
> *43. At this juncture, it is to be noted that supernumerary posts have already been assured by the DoPT and this position stands recorded in the 21st Report of the Parliamentary Committee on the Welfare of Other Backward Classes. In view thereof, we find no difficulty in directing the appellants to create such supernumerary posts, as required, to accommodate the candidates who satisfy the non-creamy layer criteria as clarified in the present judgment, subject to their otherwise fulfilling eligibility conditions.*
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> *44. To sum up*
> *(i) All the Civil Appeals are dismissed.*

(ii) The appellants are directed to consider the claims of the respondent candidates and intervenors in accordance with the principles laid down in this judgment, and to implement the same within a period of six months from the date of this judgment.
(iii) There shall be no order as to costs.
(iv) Pending application(s) including Intervention Applications, stand disposed of accordingly."

13. A perusal of the judgement in its entirety reveals that this Court determined the rights of the respondent candidates in the Civil Appeals primarily with regard to their entitlement to posts under the OBC-reserved category, on an interpretation of the applicable 1993 OM and the subsequent 2004 Letter. We find no observation or direction requiring the Union Government to revisit appointments already made, revise the seniority of any person, or undertake any selection, appointment or service allocation exercise afresh. The judgment was rendered on the facts of the cases before this Court and determined the rights of the parties to the *lis*. Although the interpretation laid down therein constitutes a binding precedent under Article 141 of the Constitution and attracts the doctrine of *stare decisis*, no direction was issued for the retrospective reopening of concluded selections, appointments or service allocations so as to affect the rights of persons, who were not parties to the proceedings.

14. Paragraphs 42 and 43 of the judgment dated 11.03.2026 must be read together. Paragraph 42 deals with the intervention applications filed by candidates whose claims were pending consideration before the competent forums or authorities, while Paragraph 43 provides for the creation of supernumerary posts,

as required, to accommodate those candidates who satisfy the non-creamy layer criteria clarified in the judgment, subject to their fulfilling the other eligibility conditions. Read in this context, the reference to **"candidates"** in Paragraph 43 means the intervenors referred to in Paragraph 42. Paragraph 44, which summaries the operative directions, must be read in conjunction with the preceding paragraphs and in the context of the issues decided and the parties before this Court.

15. The present Miscellaneous Applications appear to proceed on the erroneous assumption that the benefit of the judgment operates retrospectively, with effect from the dates of selection and appointment of the respondent candidates, and that the Union Government is required to undertake a corresponding exercise within six months. Such an interpretation is not borne out by the judgment. This Court did not direct the retrospective revision or reconsideration of selections, appointments, seniority or service allocations already concluded. The six-month period stipulated in Paragraph 44(ii) was intended for implementation of the directions in relation to the respondent candidates and intervenors and cannot be construed as requiring a general exercise. Consequently, no further time need be granted for undertaking an exercise that was not directed by this Court in the first place.

16. It is also well settled that miscellaneous applications cannot be employed as a means to seek a rehearing of matters already decided or to reopen issues concluded by the judgment. Such applications may be entertained only for the

correction of clerical or arithmetical errors or the resolution of genuine difficulties in implementing the directions issued by the Court. In the present case, the applications have been entertained only to clarify the scope and temporal operation of the directions already issued. They cannot, however, be employed as a ruse to secure reconsideration of the merits of the judgment under the guise of seeking clarification.

17. In view of the aforesaid, issuing a further direction prescribing a time limit for establishing equivalence of posts, etc., as sought by the applicants/appellants in the present Miscellaneous Applications, does not arise.

18. Therefore, this Court is inclined to dispose of the present Miscellaneous Applications in the following terms:

(i) The judgment dated 11.03.2026 determines the rights of the parties before this Court. It holds that the respondent candidates fall within the non-creamy layer of the OBC category and are entitled to the benefit of reservation together with consequential placement and allotment of posts in the selection processes in which they participated.

(ii) The grant of such benefit shall not, by itself, operate to the detriment of the seniority of any other person or entail the reopening of selections or appointments already concluded. In this regard, it is relevant to note that by its letter dated 20.12.2016, the DoPT had clarified that the selections pursuant to the Civil Services Examination, 2016 were subject to the outcome of the appeals pending before this Court.

(iii) Paragraphs 42 and 43 of the judgment concern the intervenors, while Paragraph 44 sets out the operative directions disposing of the Civil Appeals. These directions are to be construed only in the context of the parties and applications dealt with in the judgment.

(iv) In Paragraph 43, this Court had taken note of the assurance given by the DoPT regarding the creation of supernumerary posts, which is also recorded in the 21st Report of the Parliamentary Committee on the Welfare of Other Backward Classes. The Government may, accordingly, accommodate the parties before this Court who otherwise fulfil the requisite eligibility conditions.

(v) The ratio laid down in the judgment shall not, by itself, furnish a ground for reopening selections or appointments already concluded prior to the judgment dated 11.03.2026. The claims of persons asserting that they are similarly placed, whose cases are pending before any Court, Tribunal or other competent forum or authority, may be considered on their own merits by the concerned adjudicating body or authority. This Court expresses no opinion on the merits of such claims, save to reiterate that the interpretation of the 1993 OM and the 2004 Letter laid down in the judgment may be taken into consideration while adjudicating such claims in accordance with law.

(vi) All selections, appointments and allotments against roster points made subsequent to the judgment dated 11.03.2026, insofar as they concern

the implementation of reservation and the exclusion of the creamy layer, shall be governed by the 1993 OM, as interpreted by this Court in the said judgment.

(vii) The Government remains at liberty to formulate its policy concerning reservation and the creamy layer criteria, in accordance with the Constitution and the principles laid down by this Court.

(viii) This Court is not inclined to prescribe any timeline for establishing equivalence between posts or consulting stakeholders in the formulation of the creamy layer policy, as these matters fall within the domain of the executive and the legislature.

(ix) With respect to M.A. Diary No.51879 of 2026, although the result of the Civil Services Examination, 2025 was declared on 06.03.2026, the allocation of services has not yet been finalised. Since the process of allocation remains pending and there is no convincing or reasonable justification for deferring the implementation of the judgment dated 11.03.2026, the creamy layer principle, as interpreted in the said judgment, shall govern the allocation of services to OBC candidates selected through the Civil Services Examination, 2025.

19. Accordingly, these Miscellaneous Applications stand disposed of. The time for compliance with the judgment is extended by a period of two months from today.

20. Pending application(s), including intervention applications shall stand disposed of.

…… J.
[PAMIDIGHANTAM SRI NARASIMHA]

…..…… J.
[R. MAHADEVAN]

NEW DELHI;
NOVEMBER 06, 2026.