

**T OF JAMMU AND KASHMIR AT  
JAMMU**

**SWP No. 1601/2004**  
**CMP No. 1649/2004**

**Date of decision:20.11.2008**

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***Har Dutt***

***Vs.***

***State of J&K & anr.***

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Coram:

***MR. JUSTICE J. P. SINGH, JUDGE***

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***Appearing Counsel:***

For Petitioner(s) : Mr. Sunil Sethi, Advocate.

For Respondent(s) : Mr. F.A.Natnoo, Advocate.

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- i) Whether approved for reporting  
in Press/Journal/Media : Yes/No
- ii) Whether to be reported  
in Digest/Journal : Yes/No
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Petitioner had applied seeking consideration for selection to the post of Lecturer Grade-I (Computer Science) in the Department of Technical Education pursuant to Jammu and Kashmir Public Service Commission, Srinagar's Notification No. 4-PSC of 2001 dated 18.5.2001.

Falling in the list of short-listed candidates, he was interviewed by the Jammu and Kashmir Public Service Commission on 22.01.2004.

The Commission thereafter issued a select list of candidates who had applied for the post of Lecturer Grade-I (Computer Science) under Open merit category

y but no select list was issued for the post reserved for Scheduled Caste Category candidates.

Projecting that being the only Scheduled Caste candidate who had been short-listed to seek consideration of the Commission for selection against the reserved post of Lecturer Grade-I (Computer Science), the petitioner was required to be reflected in the select list which the respondents were under an obligation to publish for facilitating the appointment of the petitioner against the post of Lecturer Grade-I (Computer Science), the petitioner, aggrieved by the omission of the respondents to publish the select list, has filed this writ petition seeking issuance of a command to the Commission to issue the select list for the post of Lecturer Grade-I in Computer Science under the reserved category of Scheduled Caste and to the State to appoint him as Lecturer Grade-I in Computer Science against the post reserved for Scheduled Caste category.

It is indicated by the Commission through its objections that on assessment of overall performance of the petitioner, he was not found to fall even within the relaxed standard prescribed for candidates belonging to the Scheduled Caste Category and having failed to make the grade, the petitioner was not required to be reflected in the select list. Denying the petitioner's entitlement to selection and appointment against the post of Lecturer

er Science), the Commission has prayed for dismissal of the writ petition.

I have gone through the pleadings of the parties and heard their learned counsel.

Petitioner's plea projected through his counsel, Mr. Sethi that being the lone candidate against the post reserved for candidates belonging to the Scheduled Caste Category, the petitioner was entitled to be selected and appointed against the post, is misconceived, in view of the provisions of Rule 51 of the Jammu and Kashmir Public Service Commission (Business and Procedure), Rules 1980 which prescribe in its explanation (Vi) that for determination of the suitability of candidates for appointment, the candidates from Open Category shall be required to obtain minimum of 50% marks and those belonging to Scheduled Caste/Scheduled Tribe and other Backward Classes shall have to obtain **minimum of 40% marks out of the total marks as given in Rule 51.**

Having failed to obtain minimum of 40% marks out of the total marks fixed by the Commission, the petitioner was not required to be reflected in the select list.

Having found the petitioner to fall below the minimum percentage of marks prescribed in Explanation (Vi) of Rule 51 of the Jammu and Kashmir Public Service Commission (Business and Procedure), Rules 1980 on assessment of his merit, the Commission was not under



to reflect the petitioner's name in the select list.

In view of petitioner's failure to secure minimum 40% marks, as assessed by the Commission, the petitioner is disentitled to seek any command against the respondents who have acted in accordance with law in rejecting his candidature for the post of Lecturer Grade-I (Computer Science).

For all what has been said above, I do not find any merit in this petition which is, accordingly, dismissed.

No costs.

**(J.P.Singh)**  
**Judge**

**Jammu**  
**20.11.2008**  
*Pawan Chopra*