

(2009) 04 J&K CK 0014

In the Jammu And Kashmir High Court

Case No : Service Writ Petition (SWP) No. 266 of 2005

Karan Singh

APPELLANT

Vs

State & Ors.

RESPONDENT

Date of Decision : 20-04-2009

Acts Referred:

Constitution of India, 1950 — Article 14, 16

Citation : (2009) 04 J&K CK 0014

Hon'ble Judges : Hakim Imtiyaz Hussain, J

Bench : Single Bench

Advocate : Seema Shehkar, R.S.Thakur, F.A.Natnoo, Advocates appearing for the Parties

Judgement

Posts of College Lecturers in various subjects including Urdu have been notified by the State Public Service Commission vide notification No.

1PSC of 2005 dated 21.2.2005. The essential qualifications required for the post are as under:

Master's Degree in the relevant subject with at lest 55% marks or its equivalent grade of B in the sevenpoint scale from an Indian University or an

equivalent Course/Degree from an Indian/Foreign University. The candidates should have qualified National Eligibility Test (NET) or State Level

Eligibility Test (SLET) conducted by UGC and CSIR/Universities of J&K State with accreditation from UGC

NOTE: NET shall remain compulsory requirement for appointment as lecturer even for candidates having PH. D Degrees. However, the

candidates who have completed M.Phil by 31.12.1993 or have submitted Ph.D. thesis in the concerned subjects up to 31.12.2002 are exempted

from qualifying NET/SLET. In case such candidates fail to obtain Ph.D. degree

they shall have to pass NET/SLET and the clearance of their probationary periods (if already appointed) shall be subject to there passing of NET/SLET.

NOTE: A relaxation 5% marks shall be provided from 55 to 50% of the marks to candidates belonging to SC/ST and physically and virtually handicapped category and also for such Ph.D. holder who have passed Masters Degree before 19.9.1991.

NOTE: The candidates are advised to attach experience certificate and copy of Government orders where under appointed/cleared as lecturers in

Higher Secondary Schools/Head Masters/Zonal Education Officer/Additional Zonal Education Officers/Zonal Education Planning Officers.

The petitioner states that vide the said notification applications from the permanent residents of the State have been invited but it has confined the

opportunity only to inservice candidates and defines the said expression to mean and include ""Post Graduate Lecturers of Higher Secondary

Schools/Head Masters/Zonal Education officers/Additional Zonal Education Officers/Zonal Education Planning Officers having teaching experience

of 5 years at Higher Secondary level in the subject concerned.

The petitioner is aggrieved that it denies equality of opportunity for consideration of the said post to all other candidates, inservice or otherwise,

and, therefore, violates Articles 14 & 16 of the Constitution. The petitioner further states that cent percent reservation made in favour of inservice

candidates consisting only of the Post Graduate Lecturers of Higher Secondary Schools/Head Masters/Zonal Education Officers/Additional Zonal

Education Officers/Zonal Education Planning Officers is invalid and otherwise contrary to law. The Public Service Commission does not have any

power to make such reservation nor does the Government have any such power.

The respondentState Public Service Commission has in reply to the present petition stated that the eligibility clause mentioned in the notification has

the sanction of the recruitment rules framed by the Government in exercise of powers under section 124 of the Constitution of J&K namely

Education (Gazetted) College Service Recruitment Rules 2004.

Heard. I have considered the matter.

The relevant rules which govern the recruitment of lecturers contained in the Jammu & Kashmir (Gazetted) College Service Recruitment, Rules

2004 read as under:

Class

Category

Designation

Scale of Pay

Minimum Method of Qualification

Recruitment

Direct recruitment

Promotion

IV A Lecturers 800013500 Master's Degree

i) 60% by

i) Arts. In

the subject direct recruitment

Commerce & concerned with ii) 40% by

Science at least 55% marks Selection from

Or its equivalent from amongst

Grade of "B" lecturers of

In the seven point Higher Secondary

Scale from an Schools/Head

Indian University Masters/ZEO's/

Or an equivalent Addl;ZEO's/

Course/degree from ZEPO's having

Indian/Foreign teaching experience

University. Of five years at

Higher Sr. Level in

The subject concerned

On the basis of open

Competition.

Perusal of the rule would show that the eligibility clause contained in the advertisement notice, impugned in the present petition is in accordance

with the recruitment rules. No challenge has been thrown to the recruitment rules. In these circumstances since the advertisement notice is in

accordance with the recruitment rules, I do not find the petitioner has got any ground to challenge the same.

I do not find any merit in the plea that the condition is violative of Articles 14 & 16. The reservation is for a particular class which has a nexus with the object.

I could not find any merit in the present petition which is hereby dismissed.