

HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU

WP(C) No.2834/2025

Reserved on: 28.01.2026
Pronounced on: 05.02.2026
Uploaded on: 06.02.2026

Priyanka Rakwal D/o Mr. Suresh Kumar W/o Mr. Sunil Manhas
R/o Village Rehari Jangalwar,
Tehsil and District Doda-182202, aged 28 years.Petitioner(s)

Through:- Mr. D.S.Chauhan, Advocate with
Ms. Damini Singh Chauhan, Advocate

Versus

1. Union Territory of Jammu & Kashmir
Through its Secretary, High Education Depaprtment, J&K
Government, Civil Secretariat, Jammu-180001
2. Chairman, Jammu & Kashmir Public Service Commission,
Resham Ghar Colony, Jammu-180001.
3. Secretary, Jammu & Kashmir Public Service Commission,
Resham Ghar Colony, Jammu-180001.
4. Arun Kumar Khajuria S/o Mr. Sudershan Khajuria
R/o Barwal, Kathua-184143

...Respondent(s)

Through:- Mr. Ravinder Gupta, AAG for R-1
Mr. M.Y.Akhoon, Advocate vice
Mr.F.A.Natnoo, Advocate for R-2 & 3
Mr. Amit Gupta, Advocate for R-4

**Coram: HON'BLE MR. JUSTICE SANJEEV KUMAR, JUDGE
HON'BLE MR. JUSTICE SANJAY PARIHAR, JUDGE**

JUDGMENT**Sanjeev Kumar J**

1. The petitioner is aggrieved and has challenged an order and judgment dated 11th July, 2025 passed by the Central Administrative Tribunal, Jammu Bench, Jammu [“the Tribunal”] in OA No.1483/2024 titled *Ms. Priyanka Rakwal v. Union Territory of J&K and others* by invoking the extraordinary writ jurisdiction vested in this Court under Article 226 of the Constitution of India.

2. In terms of judgment impugned, the Tribunal has dismissed an OA filed by the petitioner seeking *inter alia* a direction to respondent Nos. 1 to 3 to select and appoint her as Assistant Professor in the discipline of Botany under EWS category.

3. Before we advert to the grounds of challenge urged by Mr. D.S.Chauhan, learned counsel appearing for the petitioner, we deem it appropriate to sketch briefly the factual antecedents leading to the filing of this petition.

4. The Department of Higher Education vide communication dated 5th July, 2021 followed by communication dated 13.04.2022 referred four posts (Open-02, RBA-01 and SC-01) of Assistant Professor, Botany to the Jammu and Kashmir Public Service Commission [“the PSC”] for selection. These posts were notified by the PSC vide notification No. 06-PSC(DR-P) of 2023 dated

01st March, 2023. While the selection process pursuant to the aforesaid notification was pending, the department of higher education vide communication dated 24th March, 2023 referred 19 more posts (OM-09, SC-01, ST-02, ALC/IB-01, SLC-01, SBA-02, PSP-01 and EWS-02) of Assistant Professor, Botany to the PSC for making selection. These posts were notified for selection by the PSC vide advertisement notification No.17-PSC(DR-P) of 2023 dated 15.05.2023.

5. The PSC conducted a common written examination in respect of both the notifications on 27.08.2023 and declared the result vide notification No.PSC/Exam/S/2023/53 dated 18.09.2023. The petitioner as well as respondent No.4, who were the candidates under EWS category, also participated in the selection process. Both qualification the examination and were declared shortlisted for interview/viva-voce, which was held on 26th to 28th September, 2023. On conclusion of interview process, a provisional select list for the post of Assistant Professor, Botany, was issued vide Notification No.74-PSC(DR-S) of 2023 dated 17.10.2023 and two candidates' namely, Mr. Abbu Zaid (61.65 points) and petitioner (49.10 points) were shown provisionally selected against the two posts of Assistant Professor under EWS category. Respondent No.4, who, too had participated in the process of selection under EWS category, on the strength of EWS certificate dated 31.05.2023 issued by the Tehsildar,

Kathua, though having better merit, did not figure in the EWS list as provisionally selected candidate for the reason that the EWS certificate dated 31.05.2023, which was submitted by respondent No.4 before the cut-off date, was not on the prescribed format and that he submitted EWS certificate in UT format only on 06.08.2023 i.e. after the cut-off date prescribed in the advertisement notification.

6. Be that as it may, the respondent No.4, feeling aggrieved of his exclusion from the selection, submitted a representation on 20.10.2023 enclosing therewith a clarification issued by the Tehsildar, Kathua vide letter dated 20.10.2023 and claimed that, as per the clarification issued by the competent authority, EWS certificate dated 31.05.2023 was not only genuine but was also in conformity with the UT format i.e. Form-XIV-A appended with the J&K Reservation Rules, 2005 [“the Rules of 2005”]

7. The representation made by respondent No.4 was considered by the Commission in its meeting held on 25.10.2024 in which it was decided to withhold the recommendations in respect of one post of EWS and to consider the representation of respondent No.4 after affording an opportunity of being heard to the petitioner, a provisionally selected candidate under EWS category.

8. The PSC considered the representation of respondent No.4 and provided hearing to the petitioner as well. It was found that respondent no.4 with merit points 64.08 points was the most meritorious candidate in the EWS category. It was also found by the Commission that respondent No.4 did meet the requirements of obtaining EWS category certificate under the Rules of 2005. This decision was taken by the Commission in the light of clarification issued by the Tehsildar concerned. Accordingly, the PSC in its meeting held on 14.01.2025, approved to recommend respondent No.4, who had admittedly secured highest points in EWS category, for appointment as Assistant Professor in Botany.

9. It seems that before a decision on the representation could be taken by PSC, the petitioner sensing trouble with regard to her selection approached the Tribunal by way of OA No.1483/2024. She, in her petition, called in question notice dated 28.06.2023 issued by the Secretary, PSC, whereby the selection of the petitioner had been kept on hold till the disposal of the representation made by respondent No.4. She prayed for a writ of mandamus to recommend her for appointment as Assistant Professor in Botany being the candidate at serial No.2 of the provisional select list of EWS in view of her merit. The writ petition was contested by the official respondents as well as respondent No.4.

10. The Tribunal having considered the relevant contentions and perused the relevant material on record, framed the following questions for determination:-

- i) Whether respondent No.4 satisfied the EWS eligibility as on the cut-off date, and whether the post-cut-off clarification fatally violates the rules or the judgments relied upon by the applicant.
- ii) Whether a candidate provisionally shown as selected acquires a right to appointment overriding a later, a higher-merit candidate whose eligibility is clarified.
- iii) Whether the impugned JKPSC notice and subsequent recommendation warrant interference.

11. In respect of point No.(i), the Tribunal concluded that as per Rule 44 (iii) of the JKPSC (Business & Procedure) Rules, 2021, it was mandatory to possess the requisite category certificate on or before the last date of receipt of application, which, in the instant case, was 16.06.2023. The Tribunal found that the respondent No.4 possessed an Income & Assets Certificate dated 31.05.2023 with the shortcoming that it was written on a Central Government format. It was, thus, held by the Tribunal that from the clarification issued by the Tehsildar on 20.10.2023, it was

demonstrated that the respondent No.4 fulfilled all the eligibility requirements of getting EWS certificate and, therefore, he would be deemed to possess a valid category certificate on the cut-off date.

12. On point No.(ii), the Tribunal relied upon the judgments passed by the Hon'ble Supreme Court to conclude that inclusion of a candidate in a provisional select list or even a select list does not *ipso facto* create an indefeasible right to appointment. It was pointed out by the Tribunal that in the instant case, selection of the petitioner was provisional and subject to the objections from the candidate/candidates aggrieved. It was, thus, within the domain of the PSC to consider the objections by the aggrieved candidates and recommend eligible candidate having more merit than the petitioner.
13. Regarding point No.(iii), the Tribunal has concluded that in the instant case, the PSC had acted reasonably, fairly and without any *mala fide*. The PSC gave opportunity of hearing to the petitioner before taking decision on the representation submitted by respondent No.4.
14. Rendering its opinion on all the three questions framed, the Tribunal held the OA devoid of merit and dismissed the same in terms of the judgment impugned.

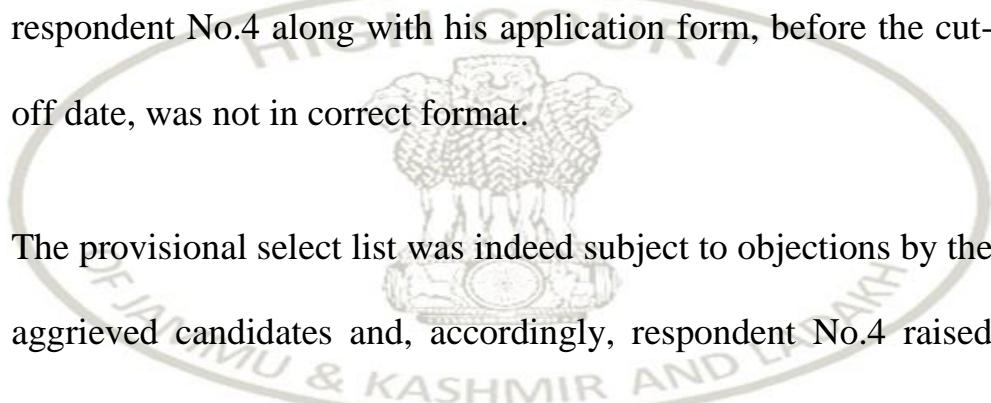
15. The impugned judgment is assailed by the petitioner on the ground that the EWS category certificate submitted by respondent No.4 in Central Government format was not a valid category certificate, which could have been considered by the PSC for conferring the benefit of reservation on respondent No.4. It is argued that, in the instant case, indisputably, EWS category certificate submitted by respondent No.4 was not a valid certificate and, therefore, the PSC had correctly not considered him under EWS category when it prepared the provisional select list.

16. Mr. Chauhan further argues that the subsequent clarification and a valid EWS certificate issued on UT format in favour of respondent No.4, were produced after the cut-off date and, therefore, could not have been taken into consideration.

17. Having heard learned counsel for the parties and perused the material on record, it is necessary to first notice few admitted facts.

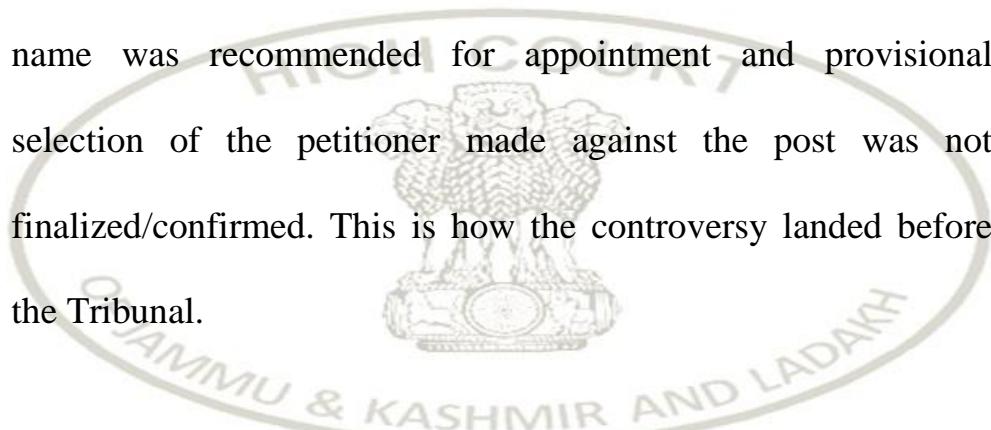
18. Advertisement Notification notifying 19 posts of Assistant Professor, Botany, which included two posts earmarked for EWS, was issued by the PSC on 15th May, 2023. The last date for submission of application forms was 16th June, 2023. The petitioner, as well as respondent No.4, was amongst the candidates, who had put their candidature for consideration under

the reserved category of EWS. In the selection process that was conducted by the PSC, respondent No.4 acquired 64.08 points, which were highest by a candidate in EWS category followed by Mr. Abbu Zaid (61.65 points). The petitioner having secured 49.10 points was third in the order of merit. Despite the fact that respondent No.4 had secured highest points in the EWS category, he was not shown selected and instead Mr. Abbu Zaid and the petitioner were shown provisionally selected for the two posts earmarked for EWS category. The PSC did so for the reason that the EWS certificate dated 31.05.2023 though submitted by respondent No.4 along with his application form, before the cut-off date, was not in correct format.



19. The provisional select list was indeed subject to objections by the aggrieved candidates and, accordingly, respondent No.4 raised objections by way of his representation against the selection of the petitioner on the ground that she was inferior in merit than him. He also submitted a clarification issued by the Tehsildar, Kathua vide his letter No.Teh/Kth/2023-24/1038 Dated 20.10.2023 in which the Tehsildar had clarified that the EWS category certificate dated 31.05.2023 was genuine and that the respondent No.4 did not fall under any of the exclusionary categories mentioned in Clause (m), (n) and (o) of Section 2 of the J&K Reservation Act, 2004 [“the Act of 2004”]. It also deserves to be noticed that the respondent No.4 had obtained a

fresh EWS certificate as per the Rules of 2005 in FORM XIV-A on 06.08.2023, which, of course, was after the prescribed cut-off date. The representation submitted by respondent No.4 was considered by the Commission in light of the clarification issued by the Tehsildar, Kathua dated 20.10.2023 and it was found that on the cut-off date, the respondent No.4 was fulfilling all the eligibility conditions required for obtaining EWS category certificate and, therefore, the benefit of reservation envisaged for EWS could not be denied to respondent No.4. Since merit of respondent No.4 was admittedly higher than the petitioner, his name was recommended for appointment and provisional selection of the petitioner made against the post was not finalized/confirmed. This is how the controversy landed before the Tribunal.



20. With a view to appreciating the rival contentions in the light of admitted factual position, it is necessary to advert to relevant provisions, which lay basis for claiming the benefit of reservation envisaged for Economical Weaker Sections. The J&K Reservation Act, 2004 and the Rules framed thererunder did not have any provision of reservation for Economically Weaker Sections of the Society. The Economical Weaker Sections of the Society were provided such reservation by the Union Territory after the promulgation of the J&K Reorganization Act, 2019 and issuance of S.O.2889(E) of 2019 dated 09.08.2019.

21. Clause (ga) was inserted between Clauses (g) and (h) of Section 2 of the J&K Reservation Act, 2004 and it reads thus:-

“(ga) “economically weaker sections” means such categories as may be notified by the Government from time to time, on the basis of family income and other indicators of economic disadvantage, other than the classes or categories defined in clauses (m), (n) and (o)”

Clauses (m), (n) and (o) define “Scheduled Caste” and “Scheduled Tribe” and socially and educationally backward classes”. It is, thus, evident that a person claiming the benefit of reservation envisaged for the category of EWS should be a person other than the person belonging to Scheduled Caste, Scheduled Tribe and other Socially and Educationally Backward Classes.

22. With a view to giving effect to reservation envisaged for EWSs, Rules of 2005 were also amended. The definition of Economically Weaker Sections (EWSs) is given in Clause (ixa) of Rule 2 of the Rules of 2005, which reads as under:-

“(ixa) “Economically Weaker Sections(EWSs)” means persons:--

(i) Who are not covered under the scheme of reservation for SCs, STs, and Socially and Educationally Backward classes as defined under clause (m), clause (n) and clause (o) of section 2 of the Act;

(ii) Whose family has gross annual income below Rs.8.00 lakh (Rupees eight lakh only) and’

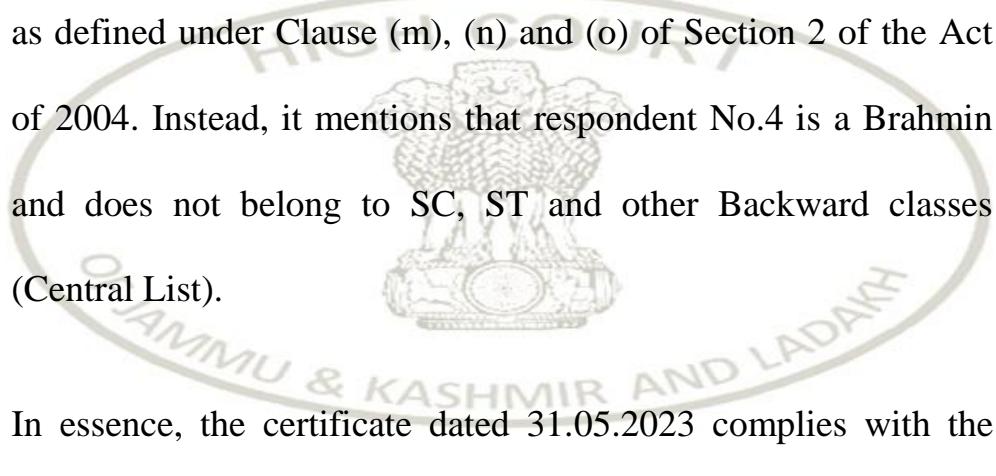
(iii) Whose family does not possess other assets as specified in proviso to clause (viii) of Rule 21.”

23. As is evident from a reading of the definition, apart from the fact that the person claiming benefit of reservation under EWS category must not be covered by the scheme of reservation for SC, ST and Socially and Educationally Backward Classes, as defined in Clauses (m), (n) and (o) of Section 2 of the Act of 2004, but the annual family income of such person must be below eight lakh and the family must not possess other assets as specified in proviso to clause (viii) of Rule 21.

24. Rule 4 of the Rules of 2005 provides 10% reservation in favour of Economically Weaker Sections in the matter of direct recruitment. Part V of the Rules of 2005 lays down procedure for issuance of category certificates. So far as EWS category certificate is concerned, District Magistrate/Additional District Magistrate/SDM/Tehsildar etc. have been appointed as competent authorities to issue such certificates.

25. Rule 19 deals with the presentation of application in the prescribed format by the person claiming the benefit of reservation. Form VII-A appended with the Rules of 2005 is a format of application for issuance of income and assets certificate and the certificate is to be issued by the competent authority in Form XIV-A. It is, however, not forthcoming from the record as to whether respondent No.4 had submitted his application form in the prescribed format i.e. Form VII-A or it was an application

submitted under the Reservation Rules of the Central Government. However, the fact remains that the certificate dated 31.05.2023, which has been issued by the Tehsildar is not in Form XIV-A. The certificate dated 31.05.2023 does not bear any Form number, though it certifies that the annual income of the family of respondent No.4 is below eight lakh and that he does not possess the assets specified in proviso to Clause (viii) of Rule 21 of the Rules of 2005. What it omits to mention is that the respondent No.4 is not covered under the scheme of reservation for SCs, STs and Socially and Educationally Backward classes, as defined under Clause (m), (n) and (o) of Section 2 of the Act of 2004. Instead, it mentions that respondent No.4 is a Brahmin and does not belong to SC, ST and other Backward classes (Central List).



26. In essence, the certificate dated 31.05.2023 complies with the requirements laid down under the Act of 2004 and the Rules framed thereunder. The omission to make mention of the fact that respondent No.4 was not covered by the scheme of reservation for SCs, STs and Socially and Educationally Backwards Classes, as defined in Clauses (m), (n) and (o) of Section 2 of the Act of 2004 was made good by the competent authority by issuing a clarification dated 20.10.2023 wherein it was certified by the Tehsildar, Kathua that respondent No.4, though, issued a certificate by making reference to OBC categories (central list),

yet was a person not belonging to any of the categories defined under Clauses (m), (n) and (o) of Section 2 of the Act of 2004.

27. In the given facts and circumstances narrated above, it can be said that technically, on the cut-off date, respondent No.4 was not possessed of a valid EWS category certificate and if that position is accepted then he was certainly not entitled to the benefit of reservation envisaged for EWSs. Not only Rule 44 (iii) of the JKPSC (Business & Procedure) Rules, 2021 but the stipulation in the advertisement notification also mandates that a category certificate, relied upon by a candidate, must be a valid category certificate having been issued by the competent authority on or before the last date of receipt of application i.e. 16th June, 2023, in the instant case.

28. It is true that on 16th June, 2023, the certificate of income and assets relied upon by the respondent No.4 was not in a correct format. In these circumstances, question arises as to whether a certificate, which otherwise meets all the requirements of eligibility for claiming the benefit of reservation meant for EWS, can be thrown out only on the ground that the issuing authority has issued it on a wrong format, more particularly, when the issuing authority, on being approached, clarifies the aforesaid aspect. The answer to this question has to be in the negative. If the certificate issued by the competent authority, which is a

certificate of income and assets, meets the requirements of Reservation Rules and makes the applicant eligible for obtaining such certificate, such certificate cannot be held to be invalid only on the ground that the issuing authority has not issued it on the proper format. It is the substance and not the form that should determine the validity of a particular certificate in contention.

29. The PSC as also the Tribunal has arrived at a fair and just conclusion that respondent No.4, who has obtained highest merit in the category of EWS, cannot be denied selection and appointment as Assistant Professor, Botany only the ground that the category certificate submitted by him, though before the cut-off date, is not valid for the reason that it has not been issued on proper format. It is not the case of the petitioner that respondent No.4 had actually applied and got the certificate under the central format or that he was not entitled to the issuance of such certificate under the Rules of 2005.
30. In view of the aforesaid, it would not be just and fair to knockout respondent No.4 only on the ground that the certificate of income and assets submitted by him before the cut-off of date was issued by the issuing authority on a wrong format.
31. The judgments relied upon by Mr. Chauhan, learned counsel for the petitioner, have been rendered in the context of their facts and, therefore, cannot be taken to have laid down any firm

proposition of law. In the case of **Registrar General, Calcutta High Court v. Shriniwas Prasad Shah and others, (2013) 12 SCC 364**, the certificate submitted by the candidate claiming the benefit of reservation meant for ST was not issued by the competent authority as provided under the West Bengal Scheduled Caste and Scheduled Tribes (Identification) Act, 1994 and there was a clear stipulation in the notice inviting applications that the candidate claiming to be SC/ST/BC must have a certificate from the competent authority specified in the West Bengal Scheduled Caste and Scheduled Tribes (Identification) Act, 1994. It is in this context the ST category certificate produced in the said case was not accepted by the Commission on the ground that the same had been issued by an authority not competent to issue such certificate under the West Bengal Scheduled Caste and Scheduled Tribes (Identification) Act, 1994. It is in these circumstances, the decision of the Commission not to entertain the certificate, which was not issued by the competent authority, was upheld and the candidate was not permitted to submit a fresh certificate issued by the competent authority after the cutoff date.

32. Similarly, in the case **Mohit Kumar v. State of Uttar Pradesh and others, 2025 INSC 704**, the Supreme Court was confronted with the situation where the aspirant had not submitted category certificate in the prescribed format. The Supreme Court took note

of the eligibility criteria laid down in Clause 5.4(4) of the advertisement, which clearly provided that if the candidates belonging to other backward class category, did not submit the certificate in the prescribed format-I within prescribed period or if they submitted the certificate of Other Backward Class category valid for the service of Government of India, they will be treated as candidates of unreserved category. It was, thus, held that in view of the clear stipulation in the advertisement, certificate submitted not in the proper format was rightly not entertained and the aspirant considered under unreserved category.

33. The facts of the instant case are different as there is no similar stipulation contained in the advertisement notification, which makes it mandatory for a candidate to submit a category certificate in a particular format and provides consequences of not adhering thereto. As a matter of fact, in the advertisement notification in question, there is no such stipulation. Clause 5 of the advertisement notification, which deals with reservation. reads thus:-

“5. Reservation

- (i) A candidate seeking his/her consideration under a Reserved Category must ensure that he/she possesses a valid requisite Category Certificate on the cut-off date.
- (ii) The candidate of the candidates will be provisional till the genuineness of the Reserved Category is verified by the Competent Authority.

(iii) Candidates may note that in case a claim for reservation is made on the basis of false/fake/fraudulent certificate, he/she shall be debarred from the examination(s) conducted by the J&K Public Service Commission, in addition to any other appeal action as may be deemed appropriate.”

34. From a reading of Clause 5 of the advertisement notification, it is abundantly clear that it mandates that a candidate claiming the benefit of a reserved category must ensure that he or she possesses a valid requisite category certificate on the cut-off date and that the candidature of such candidate would be provisional till the genuineness of the reserved category certificate is verified by the competent authority. The Clause does not provide for production of category certificate in a particular format nor does it provide consequences, as provided and taken note of by the Supreme Court in the case of **Mohit Kumar** (supra).

35. For the foregoing reasons both the judgment relied upon by Mr. Chauhan are distinguishable and do not, in any manner, advance the case of the petitioner. The certificate of income and assets produced by respondent No.4 before the cut-off date read with clarification dated 20.10.2023 cannot be held to be invalid only for the reason that the issuing authority has not issued it on proper format. The position would have been different, had respondent No.4 acquired the eligibility to obtain the certificate after the cut-off date.

36. Viewed from any angle, we do not find any infirmity or illegality in the decision of the PSC as upheld by the Tribunal in terms of

the impugned judgment that respondent No.4 was eligible and entitled to the benefit of reservation in EWS category and being the most meritorious candidate entitled to be selected and appointed against one of the two posts of Assistant Professor, Botany notified for selection under EWS category.

37. For the reasons we have given above, we find no merit in this petition. and the same is, accordingly, dismissed.

(Sanjay Parihar)
Judge

(Sanjeev Kumar)
Judge

JAMMU
05.02.2026
Vinod, Secy

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

