



**JAMMU & KASHMIR PUBLIC SERVICE COMMISSION SOLINA
RAMBAGH SRINAGAR**

Website: www.jkpsc.nic.in
Email: jkpscsecretary@gmail.com

May-Oct: 0194-2312629 (f) 2312631-(S)
Nov-April: 0191-2566528 (f) 2566530-(J)

Subject:- Consideration order in compliance to Hon'ble Central Administrative Tribunal order dated 02.06.2023 passed in OA No. 523/2023 titled Akshay R Gupta & Anr. V/s UT of J&K & Ors.

**Order No. 199-PSC of 2023.
Dated: 19-09-2023.**

1. Whereas, the Department of Law, Justice & Parliamentary Affairs, vide communication No. Law-Estt/29/2022-10 Dated: 01.04.2022 and LD(Estt)2019/51 dated:21.01.2020 referred thirty eight (38) posts, as per the following break-up, to the J&K Public Service Commission, for selection:-

OM	RBA	SC	ST	EWS	ALC/ IB	SLC	PSP	TOTAL	Remarks
19	04	03	04	03	02	01	02	38	01 vacancy under 4% Horizontal reservation locomotor disability)

2. Whereas, the J&K Public Service Commission vide Notification No. 21- PSC (DR-P) of 2022 dated: 29.08.2022, read with addendum dated: 02.09.2022, advertised the said posts; and

3. Whereas, in response to the above notification, 1985 application forms were received; and

4. Whereas, in pursuance of Rule 43 of J&K Public Service Commission (Business & Procedure) Rules, 2021 as amended from time to time, a written test was conducted on 22.01.2023, in which 1474 candidates appeared. The result of the written test was declared vide Notification No. PSC/Exam (S)/2023/06 & PSC/Exam (S)/2023/07 dated 08.02.2023 in pursuance of Rule 42 of the J&K Public Service Commission (Conduct of Examinations) Rules, 2022 read with Rule 31 of J&K Public

Service Commission (Business & Procedure) Rules, 2021, as amended from time to time. 121 candidates qualified the written examination, out of which 03 candidates were found ineligible; and

5. Whereas, the viva-voce of 118 candidates who had qualified the written exam, was conducted w.e.f. 03.04.2023 to 08.04.2023 & 11.04.2023 with the assistance of Experts; and

6. Whereas, the Provisional Select List was issued vide Notification dated 13.04.2023; and

7. Whereas, two posts, one each under ST and EWS category remained vacant, as the candidates under the said category could not cross the bench mark; and

8. Whereas, the two candidates, namely, Mr. Akshey R Gupta and Ms. Mehnaz Chaudhary who had appeared in the interview under EWS and ST category, respectively did not cross the bench mark as prescribed under Rule 50 of J&K Public Service Commission (Business & Procedure) Rules, 2021; and

9. Whereas, the above two candidates, filed OA No 523/2023 titled Akshey R Gupta & Anr V/s UT of J&K and Ors; before the Hon'ble Central Administrative Tribunal Jammu, contending that applicant No. 1 has obtained 39.62 points and is short of 0.38 points as minimum benchmark is of 40 per cent, in terms of Rule 50 of J&K Public Service Commission (Business & Procedure) Rules, 2021. It has been argued by learned Sr. Counsel that by implementing Rule 51 and 52 of J&K Public Service Commission (Business Procedure) Rules, 2021, the grace marks to the extent of 0.38 points in favour of the applicant may be considered by respondent No. 3. In support of his claim, learned Sr. Counsel for the applicant has relied upon the judgment of Hon'ble Supreme Court titled State of Uttar Pradesh Vs. Pawan Kumar Tiwari, 2005 AIR SC 658. The Learned Sr. Counsel further argued that, in term of para 6 of the said judicial pronouncement of Hon'ble Supreme Court, the case of the applicant may be considered by the respondents and,

10. Whereas, the Hon'ble Tribunal while hearing the Supra OA has directed as under:

"In view of the above facts, the respondents are directed to consider the case of the applicant in terms of ratio of Pawan Kumar Tiwari (supra) judgment within a period of four weeks"

11. Whereas, the case was placed before the Commission in its First Extra ordinary meeting on 28.06.2023, and in view of the supra direction of the Hon'ble Tribunal, the Commission decided to constitute a Committee of two Hon'ble Members of the Commission to consider rounding off the merit to prescribed bench mark as provided to the reserved categories in J&K Public Service Commission (Business & Procedure) Rules, 2021; and

12. Whereas, the report of the Committee was placed before the Commission in its 10th extraordinary meeting dated 11.08.2023, at agenda item No 10.2. The Commission took the following decision:

'The Commission approved the Report of the Committee constituted in terms of decision No. 1.1 of the First Extraordinary meeting of the Commission dated 28.06.2023 for rounding off the merit. The Rounding Off is not provided in J&K Public Service Commission (Business & procedure) Rules, 2021 as amended from time to time and is not applicable in the matter in question. The Commission shall accordingly issue the Consideration order''

Now, therefore, the claim of the applicants having been considered in light of the Orders of the Hon'ble Central Administrative Tribunal, Jammu, dated 02.06.2023 passed in OA **No. 523/2023** titled **Akshey R Gupta & Anr Vs UT and Ors** has been found devoid of any merit and is rejected accordingly.

19/09/23

Bashir Ahmad Dar (JKAS),
Secretary,
J&K Public Service Commission.

No. JKPSC-Leg/110/2023-05

Dated: 19.09.2023

Copy to:

1. Secretary to Government, Department of Law, Justice & Parliamentary Affairs.
2. Mr. F. A .Natnoo, Standing Counsel for information and n.a.
3. Private Secretary to Hon'ble Chairman J&K Public Service Commission for the Information of the Hon'ble Chairman.