



**Central Administrative Tribunal
Jammu Bench, Jammu**

T.A. No. 3730/2021
(SWP No.1253/2018)

Wednesday, this the 30th day of June, 2021

(Through Video Conferencing)

Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Mr. Mohd, Jamshed, Member (A)

Mujeeb Ul Rehman
Age 29 years
s/o Mohd. Hanief Dev,
r/o Village Gangera
Tehsil & District Udhampur

..Applicant

(Mr. Sandeep Bhat, Advocate)

Versus

1. State of Jammu and Kashmir, through Commissioner/Secretary to Government, Revenue Department, Civil Secretariat, Jammu/Srinagar
2. J & Service Selection Board through its Secretary, Sehkari Bhawan, Railhead Complex, Jammu
3. Chairman, J & K Service Selection, Sehkari Bhawan, Railhead Complex, Jammu

..Respondents

(Mr. Rajesh Thappa, Deputy Advocate General)

ORDER (ORAL)

Mr. Justice L. Narasimha Reddy:

The respondents issued Advertisement Notice No.06 of 2015 dated 01.09.2015 for the post of Patwari in the District Udhampur. The provisions of Jammu & Kashmir Civil Services

Decentralization and Recruitment Act, 2010 (for short “Act of 2010”) are made applicable. The applicant states that he is the resident of Udhampur District for the past several years and even at present he is residing at that place. The respondents, however, took the view that the Permanent Residence Certificate (PRC) held by the candidates will be taken as conclusive proof, and the one possessed by the applicant, is from District Ramban. The respondents did not consider his candidature for Udhampur. Therefore, he filed SWP No.1253/2018 before the Hon’ble High Court of Jammu & Kashmir, with a prayer to direct the respondents to conduct his interview and to issue appointment order in case he is selected by the Selection Board, Another prayer was to declare Section 13 (1) of the Act of 2010 as *ultra vires* of the Articles 14 & 16 of the Constitution of India; and to declare the rejection of the candidature of the applicant as bad in law.

2. The applicant contends that Section 13 (1) of the Act of 2010 insists only on residence in an area and contrary to that, the respondents are taking into account, the PRC. It is also stated that the PRC is issued on different considerations, whereas the requirement under the Act of 2010 is one, of residence.

3. The SWP has since been transferred to the Tribunal in view of re-organization of the State of Jammu & Kashmir and re-numbered as T.A. No.3730/2021.

4. Today, we heard Mr. Sandeep Bhat, learned counsel for applicant and Mr. Rajesh Thappa, learned Deputy Advocate General.

5. The selections and appointments to certain posts in the State of Jammu & Kashmir are highly regional in nature. In many cases, the District Cadres are constituted and the eligibility is conferred only on the residents of those areas. Section 13 (1) of the Act of 2010 is to the effect that persons residing in the particular District for a period of not less than 15 years shall be treated as eligible. As of now, the applicant holds the PRC of Ramban District. Assuming that he is residing in the limits of Udhampur District, there must exist certificate to that effect.

6. The respondents insisted that the proof of residence shall be in the form of PRC. That, in turn, is on the basis of sub-rule 4 of Rule 13 of the Rules framed under the Act. There may appear to be some lack of conformity between Section 13 (1) of the Act on the one hand and Section 13 (4) of the Rules, on the other.

The former stipulates the residence simplicitor, whereas the latter refers to the PRC. The grievance of the applicant, if at all, should have been *vis a vis* Rule 13 (4) of the Rules. However, he has chosen to challenge Section 13 (1) of the Act, which, in a way, is helpful to him. The SWP reflects the challenge to a provision, which is helpful to the applicant leaving aside the provision, which came in the way of his being considered. When the same is pointed out to learned counsel for applicant, he sought permission of the Tribunal to withdraw the T.A. with liberty to file a fresh one, with appropriate remedy.

7. Permission is accorded. The T.A. is accordingly dismissed as withdrawn, leaving it open to the applicant to pursue the remedies in accordance with law. There shall be no order as to costs.

(Mohd. Jamshed)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

June 30, 2021
/sunil/jyoti/