

(Reserved)

**CENTRAL ADMINISTRATIVE TRIBUNAL
JAMMU BENCH, JAMMU**

Hearing through video conferencing

T.A. 62/717/2020



Pronounced on: This the 08th day of September 2021

HON'BLE MR. RAKESH SAGAR JAIN, MEMBER (J)
HON'BLE MR. ANAND MATHUR, MEMBER (A)

1. Anzar Ahmed Kalal, Age 39 years, S/o Nissar Ahmed Kalal, R/o Near Astan Pain, Ward No. 1, Kishtwar, Tehsil and District Kishtwar
2. Fida Hussain, Age 46 years, S/o Late Abdul Gani Giri, R/o Village Poochal, Tehsil and District Kishtwar.
3. Javed Iqbal, Age 49 years, S/o Ghulam Nabi, R/o Asrarabad, Kishtwar, Tehsil and District Kisthwar.

.....Applicants.

By Advocate: Mr. Faheem Shokat Butt

VERSUS

1. State of Jammu and Kashmir through Financial Commissioner (Revenue), Civil Secretariat, Srinagar/Jammu.
2. Commissioner Secretary to Govt. Revenue Department, Civil Sectt., Srinagar/Jammu.
3. Divisional Commissioner, Rail Head Complex, Jammu.
4. Deputy Commissioner, Kishtwar.

....Respondents

By Advocate:- Mr. Amit Gupta, learned A.A.G/Mr. Sunil Sethi, Sr.

Advocate assisted by Mr. Ankesh Chandel

c/w

T.A No. 6565/2020



1. Vinay Kumar, Aged 45 years, S/o Late Sh. Hari Chand, R/o Mondalla (Bhalla) Tehsil, Bhalla, District Doda.
2. Irshad Hussain, Aged 43 years, S/o Abdul Sitar, R/o Village Mangot, Tehsil Dodrmat, District Doda.
3. Jaswant Singh, Aged 38 years, S/o Swami Raj, R/o Indralla, Tehsil Thathri, District Doda.
4. Suresh Kumar, Aged 46 years, S/o Sh Bansi Lal, R/o Panjgarine, Tehsil Bhalla, District Doda.
5. Mohd Ashraf, Aged 45 years, S/o Din Mohd, R/o Chakka, Bhadarwah, Tehsil Bhadarwah, District Doda.
6. Bashir Ahmed, Aged 41 years, S/o Mohd Ismail, R/o Bhargi, Tehsil Bhalesha, District Doda.
7. Prem Lal, Aged 51 years, S/o Sh. Durga Dass, R/o Shamthi, Tehsil Katigarh, District Doda.
8. Riaz Ahmed, Aged 43 years, S/o Ghulam Hassan, R/o Village Cherrote Tehsil Gundua, District Doda.
9. Anayat Hussain Zargar, Age 47 years, S/o Hassam Din Zargar, R/o Kulhotran, Tehsil Gundoh, District Doda.
10. Rafia Akhter, Aged 39 years, D/o Manzoor Ahmed Wani, R/o Kilhotran, Tehsil Gundoh, District Doda.
11. Bansi Lal, Aged 42 years, S/o Sh Amar Chand, R/o Chakka, Tehsil Rajgarh, District Ramban.
12. Jatinder Singh Manhas, Age 43 years, S/o Sh. Ram Lal, R/o Bhaderwah, District Doda.



13. Shabir Ahmed, Aged 47 years, S/o Mohd Safir Lone, R/o Roat, Tehsil Marmat, Tehsil Marmat, District Doda.
14. Mirza Mohd Aslam Beig, Aged 34 years, S/o Mirza Mohd Amin Beg, R/o Udhyanpur, Tehsil Bharat, Bagla, District Doda.
15. Khadim Hussain, Aged 43 yars, S/o Ali Mohd. R/o Tehsil Gundoh, District Doda.

.....Applicants.

By advocate: Mr. Sunil Sethi, Sr. Advocate assisted by Mr. Ankesh Chandel

VERSUS

1. State of Jammu and Kashmir through Commissioner/Secretary Revenue Department, Civil Secretariat, Jammu.
2. Financial Commissioner (Revenue) J&K Government, Rail Head Complex, Jammu.
3. Divisional Commissioner, Jammu.
4. Deputy Commissioner, Doda.

....Respondents

By Advocate:- Mr. Amit Gupta, learned A.A.G./Mr. Faheem Shokat Butt

c/w

T.A No. 1274/2020

1. Shesh Kumar, Age 45 years, S/o Jewa Nand, R/o Galigad, Tehsil & District Kisthwar.
2. Abid Rashid Mughal, Age 44 years, S/o Abdul Rashid Mughal, R/o Gudhali Mohalla, Tehsil and District Kishtwar.
3. Tanveer Ahmed, Age 44 years, S/o Gh. Hassan, R/o Link Road, Tehsil & District Kishtwar.



4. Dharminder Singh, Age 39 years, S/o Bansilal, R/o Village Trigam, Kishtwar.
5. Bashir Ahmed, Age 31 years, S/o Maya Khan, R/o Village ANjole Thakrie, Tehsil and District Kishtwar.
6. Asif Rashid Butt, Age 35 years, S/o Abdul Rashid Butt, R/o Village Pochhal, Tehsil and District Kishtwar.

.....Applicants.

By Advocate: Mr. Faheem Shokat Butt

VERSUS

1. State of Jammu and Kashmir through Financial Commissioner (Revenue), Civil Secretariat, Srinagar/Jammu.
2. Commissioner Secretary to Govt. Revenue Department, Civil Sectt., Srinagar/Jammu.
3. Divisional Commissioner, Rail Head Complex, Jammu.
4. Deputy Commissioner, Kishtwar.

....Respondents

By Advocate:- Mr. Amit Gupta, learned A.A.G./Mr. Sunil Sethi, Sr.

Advocate assisted by Mr. Ankesh Chandel/Mr. Ahsan Mirza

c/w

TA No. 584/2020

1. Subash Chander, Aged 44 years, S/o Krishan Chand, R/o Sehswan, Tehsil Marheen, District Kathua.
2. Vinod Kumar, Aged 40 years, S/o Rattan Chand, R/o Village Phinter (Dher), Tehsil Billawar, District Kathua.



3. Jai Pradeep Singh, Aged 45 years, S/o Kulwant Singh, R/o Janglote, Tehsil and District Kathua.
4. Lal Hussain, Aged 36 years, S/o Qasim Din, R/o Kishanpur Dungara, Tehsil Billawar District Kathua.
5. Kulbir Singh, Aged 46 years, S/o Gandharb Singh, R/o HiranagarMohraChanjal, Tehsil Hiranagar, District Kathua.
6. Prem Singh, Aged 37 years, S/o Churu Ram, R/o Baggan Tehsil Billawar, District Kathua.
7. Jagdish Chander, Aged 28 years, S/o Chandi Ram, R/o Durang Tehsil Billawar, District Kathua.
8. Harbans Lal, Aged 50 years, S/o Des Raj, R/o Ghagwal, District Samba.
9. Balwant Raj, Aged 38 years, S/o Rattan Chand, R/o Village Dhan, PO Nagrota, Tehsil Billawar, District Kathua.
10. Kishore Kumar, Aged 39 years, S/o Kaku Ram, R/o Pallan, Tehsil Billawar, District Kathua.



11. Asrar Ahmed, Aged 39 years, S/o Abdul Rehman, R/o Thal Lohai, Tehsil Billawar, District Kathua.
12. Ishtiaq Ahmed, Aged 50 years, S/o Abdul Rehman, R/o Thal Lohai, Tehsil Billawar, District Kathua.
13. Manzoor Ahmed, Aged 47 years, S/o Abdul Rashid, R/o Chandal PO Lowang, Tehsil Bani, District Kathua.
14. Surinder Gupta, Aged 37 years, S/o Sudesh Kumar Gupta, R/o Bhaddu, Tehsil Billawar District Kathua.
15. Sham Lal, Aged 40 years, S/o Sh. Nek Ram, R/o Village Mahanpur, District Kathua.
16. Kubir Singh, Aged 42 years, S/o Isher Dass, R/o Village Parnalla Tehsil Billawar District Kathua.
17. Parmod Kumar, Aged 36 years, S/o Mohan Lal Sharma, R/o Village Sukrala, Tehsil Billawar, District Kathua.
18. Uttam Chand, Aged 39 years, S/o Lal Chand, R/o Village Mahanpur, District Kathua.
19. Mohd. Latif Butt, Aged 40 years, S/o Mohd. Riaz Butt, R/o Ward No. 11, Tehsil Basoli, District Kathua.



20. Mangal Singh, Aged 38 years, S/o Sh. Achhru Ram, R/o Dhaggar Tehsil Basoli, District Kathua.
21. Shafique Ahmed, Aged 40 years, S/o Ghulam Mohd. R/o Dhan Jhankar, Basoli District Kathua.
22. Rajeev Sharma, Aged 41 years, S/o Kuldeep Raj, R/o Hut Tehsil Basoli District Kathua.
23. Vijayent Singh, Aged 37 years, S/o Hans Raj, R/o Plakh, Tehsil Basoli, District Kathua.
24. Mohd. Imtaz Butt, Aged 36 years, S/o Mohd. Ayaz Butt, R/o Ward No. 11, Tehsil Basoli, District Kathua.
25. Mohd. Rafiq Ansani, Aged 38 years, S/o Sh. Id Mohd. R/o Village Sabar District Kathua.
26. Anil Kumar, Aged 35 years, S/o Achhru Ram, R/o Village Bhakoge District Kathua.
27. Atul Khajuria, Aged 40 years, S/o Late Surinder Kumar, R/o Village Kanthal District Kathua.



28. Mohinder Kumar, Aged 43 years, S/o Sh. Des Raj, R/o Village Dullangal, District Kathua.
29. Sanjay Kumar, Aged 37 years, S/o Sh. Hari Lal, R/o Tehsil Bani, District Kathua.
30. Akram Khan, Aged 35 years, S/o Ghulam Ali, R/o Village Gati, Tehsil Fatehpuri, District Kathua.
31. Major Singh, Aged 36 years, S/o Sh. Shanku Ram, R/o Village Sitti, Tehsil Bani, District Kathua.
32. Kishore Kumar, Aged 44 years, S/o Om Parkash, R/o Tehsil Bani, District Kathua.
33. Mohd. Hidayatullah, Aged 42 years, S/o Sh. Abdul Rashid, R/o VPO Lowering Tehsil Bani, District Kathua.
34. Sher Singh, Aged 35 years, S/o Sh. Maan Singh, R/o Fatehpuri, Tehsil Bani, District Kathua.

.....Applicants.

By advocate: Mr. Sunil Sethi, Sr. Advocate assisted by Mr. Ankesh Chandel

VERSUS

1. State of Jammu and Kashmir through Commissioner/Secretary Revenue Department, Civil Secretariat, Jammu.



2. Financial Commissioner (Revenue) J&K Government, Rail Head Complex, Jammu.
3. Divisional Commissioner, Jammu.
4. Deputy Commissioner Kathua.
5. Shesh Kumar, Age 48 years, S/o Jewa Nand, R/o Galigad, Tehsil & District Kishtwar.
6. Abid Rashid Mughal, Age 47 years, S/o Abdul Rashid Mughal, R/o Gudhali Mohalla, Tehsil and District Kishtwar.
7. Tanveer Ahmed, Age 47 years, S/o Gh. Hassan, R/o Link Road, Tehsil & District Kishtwar.
8. Dharminder Singh, Age 42 years, S/o Bansi Lal, R/o Village Trigam, Kishtwar.
9. Bashir Ahmed, Age 34 years, S/o Maya Khan, R/o Village Anjole Thakrie, Tehsil and District Kishtwar.
10. Asif Rashid Butt, Age 35 years, S/o Abdul Rashid Butt, R/o Village Pochhal, Tehsil and District Kishtwar.
11. Anzar Ahmed Kalal, Age 42 years, S/o Nissar Ahmed Kalal, R/o Near Astan Pain, Ward No. 1, Kishtwar, Tehsil and District Kishtwar.
12. Fida Hussain, Age 46 years, S/o Late Abdul Gani, Giri, R/o Village Poochal, Tehsil and District Kishtwar.
13. Javed Iqbal, Age 52 years, S/o Ghulam Nabi, R/o Asrarabad, Kishtwar, Tehsil and District Kishtwar.

....Respondents

By Advocate:- Mr. Amit Gupta, learned A.A.G/Mr. Faheem Shokat Butt/Mr. Danish Butt, Mr. M R Qureshi, Mr. Mohsin Bhatt, Mr. P N Bhat

c/w

T.A No. 3433/2020



1. Mansur-ul-Amin, Age 46 years, S/o Sh. Abdul Aziz, R/o Village Majhoor, Tehsil Thanamandi, District Rajouri.
2. Mushtaq Ahmed Age 47 years, S/o Mohd Rashid, R/o Village Badi Darhal, Tehsil Badi Darhal, Tehsil Darhal District Rajouri.
3. Mohd. Khalid, Age 44 years, S/o Mohd Afsar, R/o Village Thanamang, Tehsil Darhal, District Rajouri.
4. Iftkhar Ahmed Mirza, Age 47 years, S/o Mirza Mohd Hafiz, R/o Village Behrote, Tehsil Thanamandi, District Rajouri.
5. Abdul Maid Age 52 years, S/o Nazam Din, R/o Village Panhad, Tehsil Koteranka District Rajouri.
6. Modh Shafiq Age 42 years, S/o Abdul Majid, R/o Village Ujhan, Tehsil Darhal District Rajouri.
7. Raghubir Singh, Age 40 years, S/o Ram Lal, R/o Village Panhar, Tehsil Kalakote, District Rajouri.
8. Anjum Javed Raina, Age 48 years, S/o Abdul Qayoom, R/o Village Hasplote, Tehsil Thanamandi, District Rajouri.
9. Jamila Tabbasum Age 44 years, W/o Rashid Hussain, R/o Village Badhnanoo, Tehsil Darhal District Rajouri.
10. Sadhat Ara, Age 45 years, W/o Abdul Qayoom, R/o Village Hayatpura, Tehsil Manjakote, District Rajouri.
11. Sarfraz Ahmed, Age 45 years, S/o Ghulamn Rasool, R/o Village Panhad, Tehsil Koteranka District Rajouri.
12. Mohd Wasim Khan, Age 40 years, S/o Mohd Akram Khan, R/o Village Dabrote, Tehsil Manjakote District Rajouri.



13. Mohd Munim Age 51 years, S/o Ghulam Nabi, R/o Village Sigrawat, Tehsil Darhal District Rajouri.
14. Fazal Bhatti, Age 45 years, S/o Mohd. Shafiq, R/o Village Saaj, Tehsil Thanamandi, District Rajouri.
15. Mahesh Kumar, Age 39 years, S/o Om Parkash, R/o Village Bareri (Nowshera), Tehsil Nowshera District Rajouri.
16. Javed Iqbal Age 45 years, S/o Mirza Mohd. Iqbal, R/o Village Behrote, Tehsil Thanamandi District Rajouri.
17. Zulafkar Ahmed Age 47 years, S/o Quresh Ahmed, R/o Village Saaj, Tehsil Thanamandi District Rajouri.
18. Mohd Farooq Shah Age 45 years, S/o Hakam Shah, R/o Village Dodasanbal, Tehsil Thanamandi District Rajouri.
19. Balwinder Kumar Age 47 years, S/o Tara Chand, R/o Village Gagrote, Tehsil Nowshera District Rajouri.
20. Niaz Ahmed Malik, Age 41 years, S/o Mohd Fazal, R/o Village Khoriwali, Tehsil Darhal, District Rajouri.
21. Mohd. Azee, Age 32 years, S/o Abdul Aziz, R/o Village Muradpur, Tehsil and District Rajouri.
22. Kala Khan, Age 46 years, S/o Mohd Yousuf, R/o Village Kalalkass, Tehsil and District Rajouri.
23. Alam Din Age 50 years, S/o Ghulam Hussain, R/o Village Agrati, Tehsil and District Rajouri.
24. Haroon Rashid, Age 38 years, S/o Abdul Rashid, R/o Village Gambir Mughlan, Tehsil Manjakote District Rajouri.
25. Murtaza Ahmed, Age 37 years, S/o Abdul Majid, R/o Village Saim Smuth, Tehsil Thanamandi, District Rajouri.

26. Qaiser Latief, Age 37 years, S/o Abdul Latief, R/o Village Hasplote, Tehsil Thanamandi District Rajouri.

27. Mohd. Rafi Khan, Age 35 years, S/o Tanveer Hussain Khan, R/o Village Hasplote, Tehsil Thanamandi District Rajouri.



.....Applicants.

By advocate: Mr. Ahsan Mirza

VERSUS

1. State of Jammu and Kashmir through Commissioner/Secretary Revenue Department, Civil Secretariat, Srinagar.
2. The Financial Commissioner (Revenue) J&K Government, Rail Head Complex, Jammu.
3. Divisional Commissioner, Jammu.
4. Deputy Commissioner Rajouri.
5. Tilak Raj, S/o Late Sh. Thakar Dass, R/o Ward No. 4, Court Road, Udhampur.
6. Arshad Hussain, S/o Safder Hussain, R/o Ward No. 11, Udhampur.
7. Ghulam Mohd, S/o Sraaj-ud-Din, R/o Udhampur
8. Rakesh Kumar, S/o Sh. Sagar Chand, R/o Latti Udhampur

....Respondents

By Advocate:- Mr. Amit Gupta, learned A.A.G./Mr. Faheem Shokat Butt

ORDER

By Hon'ble Mr Rakesh Sagar Jain, Member (J)

1. The present T.A. No. 62/717/2020 titled Anzar Ahmed Kalal v/s State of J&K stands clubbed with T.A No. 6565/2020 titled V. Kumar and ors v/s State of J&K and Ors, T.A No. 1274/2020 titled Shesh Kumar &

Ors v/s State of J&K & Ors , T.A. No. 61/584/2020 titled Subash Chander and ors. v/s State of J&K and Ors and T.A. No. 3433/2020 titled Mansur-ul-Amin and ors v/s State of Jammu and Kashmir and ors.



2. Applicant Anzar Ahmed Kalal and 2 other applicants have filed the present T.A. seeking the following reliefs:

“A. Mandamus

- (i) So as to command and direct the respondents to calculate the quota of Patwaries of District Kishtwar w.e.f., date of enforcement of J&K Civil Services Decentralization and Recruitment Act, 2010 i.e., 10.05.2010 and the Rules made there under i.e., 21.10.2010 for promotion to Divisional Cadre post of Girdawar and after calculating the allocation in the ratio and proportion as the cadre strength of the District Kishtwar to the total cadre strength of Division Jammu, promote the eligible Patwaris to the Divisional Cadre post of Girdawar or equivalent retrospectively from the date of accrual of vacancy or from the date it has become due to them along with all the consequential service benefits.
- (ii) So as to command and direct the respondents to strictly adhere to provisions of Sub Section (2) of Section 10 of J&K Civil Services Decentralization and Recruitment



Act, 2010 and Rule 19 of J&K Civil Services Decentralization and Recruitment Rules 2010 while making promotion of Patwaris which is District cadre post to the Divisional cadre post of Girdawar.

- (iii) So as the command and direct the respondents to prepare seniority list of Patwaris of Jammu Division at District level in accordance with Section 12 of J&K Civil Services Decentralization and Recruitment Act 2010 and Rule 22 of J&K Civil Services Decentralization and Recruitment Rules, 2010 and thereafter allocate to each district the number of Divisional cadre posts in the ratio and proportion as the cadre strength of each district bears to the total cadre strength of the Division as envisaged under Sub Section (2) of Section 10 and Rule 19 of J&K Civil Services Decentralization and Recruitment Act, 2010 and the Rules made there under;

B. Prohibition;

- (i) So as to restrain the respondents from filling the post of Girdawars on substantive basis till the matter is being adjudicated finally by the Hon'ble Court."

3. Case of the applicants is that they were selected and consequently appointed as Patwaris in District Cadre Kishtwar and they are to be promoted to the post of Girdawar which is a Divisional cadre post in accordance with provisions of Jammu & Kashmir Civil Services



Decentralization & Recruitment Act, 2010 (hereinafter referred to as 'Act of 2010') and Jammu and Kashmir Civil Services Decentralization & Recruitment Rules, 2010 (hereinafter referred to as 'Rules of 2010') promulgated vide notification SRO 375 of 2010 dated 21.10.2010. Applicants seek similar reliefs as was granted by the Hon'ble High Court at Jammu vide order dated 02.09.2014 in SWP No. 2379/2014 titled Abid Rashid Mughal v/s State of J&K wherein the respondents were directed to make promotion to the post of Girdawar strictly in accordance with Jammu & Kashmir Civil Services Decentralization & Recruitment Act, 2010 and the rules framed thereunder and keeping in mind the letter No. 15.05.2012 (Annexure VI to the present T.A.). Applicants herein seek similar relief.

4. Official respondents filed the counter affidavit wherein it has been averred that seniority of members of service is maintained according to Rule 24 of CCA Rules but the manner in which the seniority is to be framed is governed by Act of 2010 and Rules of 2010 thereby removing the disparity between the districts. The Act and Rules of 2010 have been enacted in order to give equitable opportunities of employment and promotion in the civil services of all the districts.



5. It be noted that in connected T.A. No. 6565/2020 titled V. Kumar and ors v/s State of J&K and T.A. No. 61/584/2020 titled Subash Chander and ors. v/s State of J&K, the challenge to Sub-section 2 of Section 10 of Jammu and Kashmir Civil Services Decentralisation & Recruitment Act, 2010 and Rule 19 of Jammu and Kashmir Civil Services Decentralisation & Recruitment Rules, 2010 as being ultra-vires the Constitution of J&K and making promotion to the post of Girdawar strictly in accordance with the J&K Revenue (Subordinate) Service Recruitment Rules, 2009 has been answered in the negative.

6. We may also note the judgment dated 21.07.2018 of the Hon'ble High Court of J&K at Jammu in SWP No. 432/2015 titled Ali Asghar v/s State wherein it has been directed as under:
 - “4. Having heard learned counsel for the parties, I am of the view that the controversy raised in this petition can be resolved by directing the respondents to strictly adhere to the provisions of Section 10 of the Act of 2010 while making promotions of Patwaris to Girdawars of the Jammu Division. Needless to say that in terms of Section 10 of the Act of 2010, the promotions from District Cadre posts to the Divisional Cadre posts are required to be made subject to the qualifications prescribed for the post under the rules and on the basis of merit and ability with regard to seniority. Sub-section 2 of Section 10 further provides that while making such promotions from District Cadre to



- Divisional Cadre, the posts shall be allocated to each district in the ratio and proportion as the cadre strength of each district bears to the total cadre strength of the Division.
5. Learned counsel for the petitioners is, therefore, right in his submission that while making promotions to the posts of Girdawars, the respondents are under an obligation to work out the number of posts allocable to each districts keeping in view the provisions of sub-section 2 of Section 10.
 6. As pointed by learned counsel for the petitioners, the respondents are going to convene DPC on 23.07.2018, it is expected that the respondents will strictly adhere to the provisions of Section 10 and make promotions accordingly.
 7. Needless to say that the petitioners, if eligible against the posts allocated to their districts shall also be considered.
 8. Disposed of.”

7. In view of the facts of the case, the T.A. is disposed with the direction to make the promotion of Patwaris to the post Girdawar by strictly adhering to the provisions of Sub-section 2 of Section 10 of Jammu and Kashmir Civil Services Decentralisation & Recruitment Act, 2010 and Rule 19 of Jammu and Kashmir Civil Services Decentralisation & Recruitment Rules, 2010. The applicants if eligible for promotion to the post of Girdawar shall also be considered. T.A. is accordingly disposed of. No costs.

(ANAND MATHUR)
MEMBER (A)

(RAKESH SAGAR JAIN)
MEMBER (J)

Arun/-