

(2025) 07 J&K CK 0448
In the Jammu And Kashmir High Court
Case No : CCP(S) No. 54 Of 2025

Deepak Sharma and others	Vs	APPELLANT
UT of Jammu and Kashmir and others		RESPONDENT

Date of Decision : 24-07-2025

Acts Referred:

Constitution of India, 1950 — Article 226
Administrative Tribunals Act, 1985 — Section 14, 29

Citation : (2025) 07 J&K CK 0448

Hon'ble Judges : Moksha Khajuria Kazmi, J

Bench : Single Bench

Advocate : Rameshwar Singh Jamwal, Monika Kohli

Final Decision : Disposed Of

Judgement

Moksha Khajuria Kazmi, J

1 By this petition, the petitioners have prayed for the following reliefs:

(i) Set aside the impugned Advertisement Notice dated 16.07.2024.

(ii) Command the respondents to issue a fresh notification after giving age relaxation of three years to all the candidates aspiring for the post of constable in J&K Police.

2 This Court, vide order dated 04.09.2024, issued notice to the respondents and, keeping in view the urgency involved in the matter, directed the matter to be listed on 06.09.2024. Thereafter, the matter was adjourned on several occasions and came to be considered in detail on 29.11.2024, when the following observations and directions were made:

(i) Petitioners through the medium of this petition filed under Article 226 of the Constitution of India having been aggrieved of the Advertisement Notification No. 01 of 2024 dated 16.07.2024 issued by the respondent No. 2 – Jammu & Kashmir Service Selection Board, whereby it has invited applications for 4002

posts of constables in J&K Police, after a gap of eight (8) years, against government instructions without giving any relaxation to the candidates who became overage in the intervening period due to this apathy or deliberate inaction of respondents against the policy adopted by various departments including the present indenting department alleging the same to be highly discriminatory and against the fundamental rights of the petitioners.

(ii) Learned counsel for the petitioners submits that the petitioners are qualified being matriculates to postgraduates and having regard to their qualification entitled to apply and compete for the examination to be conducted for the selection of Constables, however, due to being overage they have been debarred from it, despite the fact that selection for the post of constables in the State of Jammu & Kashmir is being carried out, after a gap of eight (8) years with Covid intervening and other supervening factors.

(iii) The respondents have filed objections to the petition controverting assertions made in the petition.

(iv) Learned counsel for the petitioners submits that the indenting department vide S.O. No. 420 dated 10.12.2021 had relaxed the maximum age for the post of Sub-Inspectors from 30 to 32 years and the UT of Ladakh has also vide S.O. No. 62 of 2022 dated 24.11.2022 relaxed the age for the post of Constables from 28 to 30 years.

(v) Learned counsel for the petitioners submits that the petitioners who have been seeking relaxation for the period upto three (3) years and submits that test is stated to be carried out for the selection of Constables on 01.12.2024 and in view of this fact, interim application of the applicants/petitioners be considered so that they are not deprived of consideration of their petition before this Court, for having been rendered infructuous.

(vi) On consideration of the matter, after hearing learned counsel from both sides, as an interim measure, the respondents are directed to consider the candidature of the petitioners irrespective of their maximum age for undergoing the test for the post of Constables to entertain the applications of the petitioners provisionally and conduct their tests along with other candidates, who have applied for the vacancies. However, their appearance in the test shall not give them any additional incentive for the consideration of appointment, which shall be subject to the outcome of the petition”.

3 This Court, after hearing both the parties, passed the aforesaid interim order directing the respondents to provisionally entertain the applications of the petitioners irrespective of their maximum age and to permit them to appear in the test, clarifying however that such appearance would not confer any advantage in the matter of appointment, which would remain subject to outcome of the writ petition.

4 Aggrieved by the said interim order, the respondents preferred an appeal

before the Division Bench. The Division Bench, vide order dated 08.07.2025, while disposing of the appeal, observed that the matter being time-sensitive, the interests of all stakeholders would be best served if the learned Single Judge made every possible endeavour to decide the writ petition expeditiously. It was further clarified that the appellants (respondents herein) would pursue their remedies before the Writ Court. The relevant portion of the order passed by the Division Bench is reproduced hereunder:

"Having argued the matter at some length, learned counsel for the appellants submits that in the given circumstances it would rather be expedient if the appeal is disposed of to enable the appellants to pursue the matter before the Writ Court itself. However, she submits that the matter being time sensitive and owing to the pendency of the petition, the rights/interests of the appellants are severely impaired. Accordingly, it is urged that the Writ Court be directed to decide the matter within a specified time.

In the wake of the position sketched out above and in terms of the statement made by learned counsel for the appellants, the appeal is accordingly disposed of. We are sanguine that considering the rights/interests of all the stakeholders to the list and the questions that arise for consideration, the learned Single Judge would make every possible endeavour to try and decide the matter as expeditiously as possible".

5 In view of the above, the matter was listed before this Court on 18.07.2025. On the said date, a contempt petition bearing CCP(S) No. 54/2025, arising out of the interim directions passed in the present writ petition, was also listed. On 18.07.2025, the matter was directed to be listed along with the said contempt petition on 21.07.2025. On 21.07.2025, the matter was heard in part and was directed to be listed on 22.07.2025. On 22.07.2025, the matter was finally heard and reserved for orders.

6 It has been observed by this Court that the present matter pertains to a service dispute relating to recruitment to the post of Constable in the Union Territory of Jammu and Kashmir, which squarely falls within the ambit of Section 14 of the Administrative Tribunals Act, 1985. Consequently, in terms of Section 29 of the said Act, the jurisdiction to entertain and adjudicate the matter lies exclusively with the Central Administrative Tribunal (CAT). Reliance is placed on the judgment of the Supreme Court in *L. Chandra Kumar v. Union of India*, (1997) 3 SCC 261, wherein it has been held that service matters covered under Section 14 of the Act are to be adjudicated by the Tribunal and not by the High Court, notwithstanding Article 226 of the Constitution. The mere fact that some interim relief was granted at an earlier stage does not confer jurisdiction on this Court to finally adjudicate the matter on merits when such jurisdiction is statutorily vested with the Tribunal.

7 In light of the above legal position, the instant writ petition is held to be not maintainable before this Court. Since the pleadings in the present petition are

complete and the petitioners have already been permitted to appear in the written examination pursuant to the interim directions passed by this Court on 29.11.2024, this Court, in the interest of justice, deems it appropriate to transfer the matter to the Central Administrative Tribunal. Accordingly, the writ petition is hereby transferred to the Central Administrative Tribunal, Jammu Bench, which shall have the jurisdiction to hear and decide the matter as a court of first instance, in accordance with law.

8 The Registry is directed to transmit the entire original record of the case, including the record of the contempt petition mentioned above to the Registrar, Central Administrative Tribunal, Jammu Bench, and retain a soft copy of the pleadings and documents for record purposes.

9 The parties shall appear before the Registrar, CAT, Jammu Bench on 30.07.2025, which shall take further steps for listing the matter before the appropriate Bench for consideration in accordance with law.

10 Given that the matter involves time-sensitive issues and impacts the rights/interests of both petitioners and respondents, and keeping in view the directions passed by the Division Bench on 08.07.2025, CAT, Jammu Bench is requested to make all possible efforts to decide the matter expeditiously, preferably within one month from 30.07.2025, the date on which the parties are required to appear before the Registrar, in the interest of justice. Further, the interim directions passed by this Court vide order dated 29.11.2024 shall continue to remain in force. That is to say, the respondents shall not disturb the provisional participation of the petitioners in the selection process, and their appearance in the tests shall not confer any additional right towards appointment, which shall remain subject to final outcome of the petition now pending before the Tribunal.

11 It is made clear that this Court has not expressed any opinion on the merits of the case.

Disposed of accordingly.