

Subject:- Summary of some of the important points raised in the D.O. Letter dated May 08, 2020.

1. Upon the enforcement of *Jammu and Kashmir Reorganisation Act, 2019 on 9th August 2019*, all provisions of the Administrative Tribunal Act, 1985 became applicable to the newly created Union Territory of Jammu and Kashmir with effect from the notified date i.e. 31st October 2019 and impacted the jurisdiction of the High Court of Jammu and Kashmir in cases concerning service matters defined under Section 3(q) of the Act.
2. By virtue of *Section 15* of the Act of 1985, service matters of persons appointed to posts in connection with the affairs of the State or at local bodies or authorities also became adjudicable by the Administrative Tribunal.
3. In anticipation of the notification under *Section 15* by the Central Government, a preliminary enquiry made in both Wings of the High Court regarding cases which would be covered under *Section 3(q)* of the Act has revealed that so far as the *Jammu Wing* is concerned, *16,335 cases* and in the *Srinagar Wing, 14261* pending cases appear to be covered under the provisions of the Central Administrative Tribunal Act and would be required to be transferred to the Tribunal. Thus a *total* of *30596* cases stand identified for probable transfer to the Administrative Tribunal.
4. After 9th August 2019, pending notification by the Central Government of the Administration Tribunals, litigants have continued to file service matters in the High Court. Between 1st September 2019 to 4th May 2020, *1293* service matters have been filed in the *Jammu Wing* out of which *402* writ petitions stand disposed of. As such in the Jammu Wing, *891* new writ petitions are also pending. In the *Srinagar Wing, 1045* such writ petitions relating to service matters have been filed which are pending. This

would mean that, **1936** cases additionally have to be transferred to the Tribunal.

5. In view of **Section 29** of the Administrative Tribunals Act, 1985, as on date, **31641** pending service matters have to be transferred from both the Wings of High Court of Jammu and Kashmir to the Administrative Tribunal.
6. The list of such cases stand posted on the High Court website in the Jammu Wing from 21st November 2019 and in the Srinagar Wing from the 23rd November 2019. It is still posted on the website.
7. The notification dated 29th April 2020 bearing No. 208 issued by the Ministry of Personnel, Public Grievances and Pensions amending the Table to an earlier notification dated 26th July 1985, directs that the **Chandigarh Bench of the Central Administrative Tribunal would exercise jurisdiction over the Union Territories of Jammu & Kashmir as well as Ladakh.**
8. It is reliably learnt that as on 29th February 2020, the **total pendency of cases before the seventeen existing Administrative Tribunals** (including its Principal Bench at Delhi) was **45241**. This includes, inter alia, the following distribution of cases amongst the various benches:

<u>Bench</u>	<u>No. of cases</u>
Principal Bench at Delhi	10019
Allahabad Bench	6241
Chennai Bench	3625
Hyderabad Bench	3396
Jabalpur Bench	3612
Kolkata Bench	4281

9. In the *Principal Bench at Delhi* as on 29th February 2020, there were only **10019** cases which is *one-third of the current pendency of the service matters in the High Court of Jammu and Kashmir*.
10. Also the *Union Territory of Jammu and Kashmir* has *pendency equivalent to three-fourth of the total pendency before all the Administrative Tribunals in India*.
11. In fact the pendency of service matters before either the Jammu or the Srinagar Wing of the High Court is more than the pendency before the Principal Bench at Delhi and, way more than that before the Administrative Tribunals at Allahabad, Chennai, Hyderabad, Kolkata, Jabalpur amongst others.
12. Even for *States having extremely low pendency, separate Tribunal Benches have been created*. (For instance, the *Bengaluru Bench* has only 895 cases and *Gawahati Bench* has 597 cases).
13. In States other than the erstwhile State of Jammu and Kashmir, there was an added advantage. By reasons of applicability of Section 1(2)(b) of the Administrative Tribunal Act of 1985 which mandated that matters relating to the State services are placed before the State Administrative Tribunal. As a result, employees under the State service could seek redressal of grievances before the State Administrative Tribunal constituted under **Section 15** thereof. This was denied to the employees of the erstwhile State of Jammu and Kashmir.
14. Each of the two Union Territories i.e. Jammu & Kashmir and Ladakh has an area equivalent to, if not more than, that of many States in India. The physical area of each of these Union Territories is much larger than that of any Union Territory in India. If a census is taken of the number of government employees, you would probably find that the number of

government employees in the Union Territory of Jammu and Kashmir is also more than perhaps some of the larger States.

15. Litigants whose cases are required to be transferred have been waiting for several years for adjudication of their rights.
16. Other than the issuance of notification dated 9th August 2019, ***no infrastructure or Registry has been created*** for operationalising the functioning of the Tribunal in Jammu and Kashmir. Records of over 31000 cases have to be immediately transferred.
17. A single Circuit Bench of the Chandigarh Bench of the Tribunal would be hopelessly insufficient to provide efficacious justice dispensation to the disputants in service matters in the Union Territory of Jammu & Kashmir as well as Ladakh. Therefore, for effective conduct of these cases, there is imperative need for establishing an ***Administrative Tribunal with multiple Benches*** having ***permanent seats both at Jammu as well as Srinagar***.
18. The fundamental right of access to justice as also the legitimate expectation of efficacious and expeditious remedies for dispute redressal would be adversely impacted.