

**HIGH COURT OF JAMMU AND KASHMIR  
AT SRINAGAR**

(Through Video Conferencing)

WP (C) No. 876/2020  
CM No. 1902/2020

Umar Ahmad Bhathanji

..... Petitioner(s)

Through: - Mr M. Ashraf Wani, Advocate  
(On Video Conference from High Court Wing Srinagar)

V/s

Union Territory of JK & Ors.

..... Respondent(s)

Through: -

Mr N.H. Shah, Senior AAG for R-1 and 3.

Mr Mir Suhail, AAG for R-2.

(On Video Conference from High Court Wing Srinagar)

Mr Sarfaraz Hamid Rather, Advocate for R-4

(On Video Conference from his office at Jammu)

**CORAM:**

**Hon'ble Mr Justice Ali Mohammad Magrey, Judge** (On Video Conference from Srinagar Wing)

**ORDER**

**08.06.2020**

Mr N.H. Shah, learned Senior AAG and Mr Mir Suhail, learned AAG have sought the dismissal of the writ petition, when the petitioner has alternate efficacious remedy provided under Central Administrative Tribunals Act, 1985. While strengthening their arguments for the claim made in the instant petition, learned Government counsel have referred to and relied upon the judgment in case of *Prafulla Kumar Swain vs Prakash Chandar Misra* reported in *SCC 1993 Supl. (III)*.

Mr N.H. Shah, learned Senior AAG submits that word “recruitment” in Clause (a) of sub-section 1 of section 14 of Central Tribunal Act, 1985 covers the selection made by the Service Selection Board on reference by the Government of Jammu & Kashmir.

Mr M. Ashraf Wani, learned counsel appearing for the petitioner has vehemently argued that this Court does not lose jurisdiction on account of there being alternate remedy available. He submits that this Court has jurisdiction under Article 226 of the Constitution, which by no stretch of imagination can be taken away by the legislation, which is the very basic structure of the Constitution.

Mr M. Ashraf Wani, learned counsel appearing for the petitioner seeks some time to advance further arguments in support of his claim.

List this matter on 23<sup>rd</sup> of June, 2020, for continuation of arguments.

Meanwhile, Service Selection Board shall file the returns about the claim of the petitioner. In the event the petitioner succeeds in the matter, the respondents shall not take the stand of non-availability of vacancy.

Registry to send copy of this order to the learned appearing counsel for the parties through *e-mail*.

(Ali Mohammad Magrey)  
Judge

**SRINAGAR**

08.06.2020

*"Hamid"*