

Jammu and Kashmir Civil Services Decentralization and Recruitment Act, 2010

JAMMU & KASHMIR

India

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Act 16 of 2010

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Jammu and Kashmir Civil Services Decentralization and Recruitment Act, 2010(Act No. 16 of 2010, dated 10.5.2010)An Act to provide for equitable opportunities of employment in the Civil Services in the State keeping in view its complex socio-economical and geographical/topographical/linguistic/security concerns and matters connected therewith and incidental thereto.Be it enacted by the Jammu and Kashmir State Legislature in the Sixtieth Year of the Republic of India as follows:

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1. Short title, extent and commencement.

(1)This Act may be called the Jammu and Kashmir Civil Services Decentralization and Recruitment Act, 2010.(2)It extends to the whole of the State of Jammu and Kashmir.(3)It shall come into force from the date 1. Published in Govt. Gazette dated 10.5.2010.of its publication in Government Gazette.

2. Definitions.

- In this Act, unless the context otherwise requires, -(a)"Act" means the Jammu and Kashmir Civil Services Decentralisation and Recruitment Act, 2010;(b)"District Cadre" means the cadre of a department in a district comprising all the posts whether executive, ministerial, technical or manipulative the basic pay of which does not exceed the basic pay for the post of Senior Assistant but does not include the posts falling under the Divisional or State Cadre;(c)"Divisional Cadre" means the cadre of a department in a Division comprising the following posts: -(i)all non-gazetted posts the basic pay of which exceeds the basic pay for the post of Senior Assistant but does not exceed the basic pay for the post of Sectional Officer and does not include the posts falling under the State Cadre;(ii)such gazetted posts or services as the Government may from time to time notify in

this behalf;(d)"Government" means the Government of the State of Jammu and Kashmir;(e)"State Cadre" means -(i)the sanctioned strength of all gazetted and non-gazetted posts borne, on the establishment of the headquarter offices of all the departments having jurisdiction over the whole State, but does not include the posts borne on the Divisional and District Cadre; and(ii)all the gazetted posts borne on the establishment of any department or service of the State except such gazetted posts as may be notified by the Government under sub-clause (ii) of clause (c);(f)words and expressions used but not defined in this Act and defined in the Jammu and Kashmir Civil Services Regulations or the Jammu and Kashmir Civil Services (Classification, Control and Appeal) Rules, 1956 shall have the meanings respectively assigned to them in such general regulations/rules.

3. [Applications of the Act. [Substituted by Jammu and Kashmir Act No. 26 of 2018, dated 26.11.2018.]

- The provisions of the Act shall apply to, -(a)all the gazetted and non-gazetted posts borne on the establishment of any Department or Service of the Government ; and(b)Class-IV posts borne on the establishment of any Department or Service of the Government or any Government company, organization and body substantially owned or controlled by the State :Provided that the provisions of this Act shall not apply to, -(i)the posts for which any special procedure is laid down under any enactment of the State Legislature ; and(ii)such other posts as may be excluded from the operation of the Act by the notification issued by the Government in this behalf from time to time.]

4. Constitution of District, Divisional and State Cadre.

(1)There shall be constituted District, Divisional and State Cadres of the Services which shall be organized on department basis and administered as such, subject to the general policy directives issued from time to time by the Government:Provided that the Government may, by notification in the Government Gazette, in exceptional circumstances and for sufficient reasons, exclude a post or a category of posts ordinarily falling within District or Divisional Cadre, and include it in the Divisional or State Cadre as may be necessary:Provided further that if there is more than one office at the District/Divisional level in a particular department, each such District or Divisional level office along with its subordinate offices in the District or the Division, as the case may be, shall constitute a separate District or Divisional Cadre, as the case may be, unless the Government, by notification, specifies otherwise.(2)Notwithstanding anything contained in sub-section (I), the posts borne on temporary organizations created for specified works/projects other than the work charged establishment shall be treated as posts in the Divisional Cadre concerned for purposes of recruitment only.

5. Mode of recruitment.

(1)The appointment to District, Divisional and State Cadre posts shall be made by the competent authority on the basis of selection made by the Public Service Commission or the State Service Selection Board, as the case may be:Provided that till the State Service Selection Board is constituted under the Act, the Board constituted under the Jammu and Kashmir Subordinate Service

Recruitment Rules, 1992, shall be the Board for the purposes of the Act.(2)The competent authority shall refer all the available vacancies in each cadre of service to the Public Service Commission or the State Service Selection Board, as the case may be, at least once in a year.

6. Appointment to District Cadre posts.

- A person shall be eligible to the appointment to a District Cadre post only if he, -(i)is a permanent resident of the State;(ii)is a resident of the concerned district; and(iii)possesses the prescribed qualification, eligibility and experience for the post as specified under the rules/orders regulating recruitment to such posts.

7. Appointment to Divisional Cadre posts.

- A person shall be eligible to the appointment to a Divisional Cadre post only if he, -(i)is a permanent resident of the State;(ii)is a resident of the concerned division; and(iii) possesses the prescribed qualification, eligibility and experience for the post as specified under the rules/order regulating recruitment to such posts.

8. Appointment to State Cadre posts.

- A person shall be eligible to the appointment to the State Cadre post only if he, -(i)is a permanent resident of the State; and(ii)possesses the prescribed qualification, eligibility and experience for the post as specified under the rules/orders regulating recruitment to such posts.

9. Promotions to the District Cadre.

- Promotions to the District Cadre posts shall, subject to the qualifications prescribed for the said posts under the relevant rules or orders regulating promotion to such posts, be made on the basis of merit and ability with due regard to seniority.

10. Promotions to the Divisional Cadre.

(1)Promotions from District Cadre posts to the Divisional Cadre posts shall, subject to the qualifications prescribed for the said posts under the rules or orders regulating promotion to such posts, be made on the basis of merit and ability with due regard to seniority.(2)While making such promotions from District to Divisional Cadre 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, as far as practicable.

11. Promotions to the State Cadre.

(1)Promotions from Divisional Cadre posts under any service to the State Cadre posts shall, subject to the qualifications prescribed for the said posts under the relevant rules or orders regulating the

service, be made on the basis of merit and ability with due regard to seniority.(2)While making such promotions from Divisional to State Cadre posts shall be allocated to each division in the ratio and proportion as the cadre strength of each division bears to the total cadre strength of the State, as far as practicable.

12. Seniority.

- There shall be maintained in every Department a separate seniority list for District, Divisional and State Cadres for all categories of posts included in the respective cadres.

13. Residence.

(1)A person shall be deemed to be resident of a particular District or Division if he/she has resided in such District or Division, as the case may be, for a period of not less than 15 years before the date of applying for a particular post and is actually residing in the said area.(2)Notwithstanding anything contained in sub-section (1), a person shall not be dis-entitled from claiming the residence in a particular District or the Division only on the ground that his/her father/mother or the person on whom he/she is dependent is living in a place outside the said District or the Division, as the case may be, on account of his/her employment, business, profession, vocational reasons or temporary dislocations from his/her original place of residence due to security reasons.(3)Notwithstanding anything contained in sub-section (1), the candidates applying under Scheduled Caste Category for any post in the Divisional or District Cadre shall, irrespective of their place of residence in the State, be eligible for selection against the posts reserved for the said category at such selection.

14. Removal of difficulties

- If any difficulty arises in giving effect to the provisions of this Act, the Government may by order, do anything which appears to it necessary for the purpose of removing such difficulty.

15. Power to make rule.

(1)The Government may, by notification in the Government Gazette, make rules for carrying out the purposes of the Act.(2)Any rule made under this Act shall as soon as may be after it is made, laid before each House of the State Legislature.