



UNION TERRITORY OF JAMMU & KASHMIR
DIRECTORATE OF HEALTH SERVICES, JAMMU

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Subject:-O.A./61/961/2021 titled Bharti Vs UT of J&K and Ors.

ORDER

Whereas, the Hon'ble Central Administrative Tribunal, Jammu Bench has disposed of the subject captioned case with the judgment/order whose operative portion reads as under:-

"Looking to the limited prayer made by the learned counsel for the applicant, the O.A. is disposed of with direction to the respondents to treat this O.A. as representation preferred by the applicant and pass a reasoned and speaking Order within a period of two months from the date of receipt of a certified copy of this order.

It is made clear that we have not entered into the merits of the case."

Whereas, the applicant has filed the above Original Application in the Hon'ble Central Administrative Tribunal, Jammu Bench wherein she has sought directions to quash the letter No:-DHS/J/Es-5/NG/8588-89, dated 28-02-2020 issued by this Directorate whereby the case of the applicant for compassionate appointment under SRO-43 of 1994 has been rejected on the ground of eligibility and letter No:-DCK/Adm/2021-22/319, dated 11-05-2021 issued by the Deputy Commissioner, Kathua by which it has been held that element of compassionate cannot be said to exist in the family. The applicant has further sought directions to issue appointment order in terms of SRO-43 of 1994 read with SRO-177, dated 20-06-2014.

Whereas, mother of the applicant namely late Sushma Devi, was working as FMPHW in Samba district, died on 13-06-2009 while in service and at the time of death the applicant was minor (DOB 18-04-2002), and;

Whereas, the Government vide SRO-43 of 1994, and amendments made thereof, has issued J&K (Compassionate Appointment) Rules, 1994 which provides for compassionate appointment of a person who is a family member of a Government employee who dies in harness other than due to militancy related action. According to proviso second to Sub Rule (1) of Rule 3 of J&K Compassionate Appointment Rules no application for compassionate appointment shall be entertained **after the expiry of one year** from the date of death of the deceased person. Further, as per stipulation contained under proviso first to Sub Rule-1 of Rule 3 of J&K Compassionate Appointment Rules the applicant is eligible and qualified for such post or acquire such eligibility and qualification **within five years** (substituted vide SRO-177 of 2014) from the date of death of the deceased person, and;

[Handwritten signatures]

Whereas, the applicant did not acquire eligibility in terms of age and qualification within five years from the date of death of the deceased employee as stipulated in the rules as such she did not qualify for appointment under compassionate grounds under rules, and;

Whereas, it is pertinent to mention here that recently the Government has issued a Notification vide SRO-120 of 2018 whereunder in Rule 5 of J&K Compassionate Appointment Rules, 1994, the following is added as Sub Rule (6) namely

“Notwithstanding anything contained in proviso first and second of Sub Rule(1) of rule 3 of these rules the widow(who has not re-married), unmarried son and unmarried daughter of a deceased government employee other than Police Personnel who has died in harness or militancy related incident may be considered under these rules by the General Administration Department on a case to case basis for appointment against a Class-IV post subject to the condition that the Deputy Commissioner/Assistant Commissioner(Revenue) of the district to which the deceased employee belonged certifies that none of the dependents of the deceased is a government employee. Further, the Deputy Commissioner concerned after due satisfaction shall certify that element of compassionate is still existing in the family which shall be countersigned by the Administrative Secretary of the concerned department to which the government employee belonged.

Explanation: Only pending/rejected cases on the date of issuance of SRO Notification 120 of 2018, dated 05-03-2018 shall be decided in accordance with the said notification.”

Whereas, the applicant also did not qualify for appointment on compassionate grounds in terms of SRO-120 of 2018 as the Assistant Commissioner, Revenue, Kathua, vide letter No:-DCK/Adm/2021-22/319, dated 11-05-2021 has certified that husband of the deceased employee (father of the applicant) is also a Govt. employee and exist in the same ration card and also the element of compassionate cannot be said to exist in the family.

Now, therefore, the claim of the applicant for appointment on compassionate grounds in terms of SRO-43 of 1994 read with SRO-177, dated 20-06-2014, as projected in the Original Application, has been examined and considered in light of relevant rules and found devoid of merit in view of the above stated rule position and hence rejected.

Sd/-
(Dr. Renu Sharma)
Director Health Services,
Jammu

No:-DHSJ/Legal/7601-06
Copy to the:-

Dated: - 28/08/2021

1. Deputy Commissioner, Kathua/Samba for information.
2. Assistant Commissioner, Kathua for information.
3. Chief Medical Officer, Samba for information.
4. Health Education Bureau, DHS, Jammu to upload the order on the official website.
5. Bharti D/O Gopal Dass R/O Village Rakh Amb Talli, Tehsil and District Samba for information.

(Dr. Seema Gupta)
Dy. Director Health Services (Sch),
Jammu