



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

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Subject:-O.A. No. 61/1472/2022 titled Mohd. Ikhlaq Vs UT of J&K &Ors.

**ORDER**

Whereas, the Hon'ble Central Administrative Tribunal, Jammu Bench has disposed of the subject captioned Original Application, on 21-10-2022, with the judgment/order whose operative portion reads as under:-

*"I have considered the submission made by the Ld. Counsels for both the sides and perused the material on record. Without expressing any opinion on the merits of the case, the O.A. is disposed of at admission stage with direction to respondents to treat a copy of this O.A. as representation of applicant for considering his claim for appointment on compassionate grounds and grant of pensionary benefits and decide it, as per relevant rules, regulations and instructions on the subject, by passing a reasoned and speaking order within a period of four weeks from the date of receipt of a certified copy of this order. A copy of speaking order be communicated to the applicant within one week thereafter."*

Whereas, the applicant has contended in the Original Application that his mother namely Sharifa Bano was working as FMPHW in Block Mahore and died while in active service on 08-09-2001 due to road traffic accident(RTA). The father of the applicant namely Mohd Sultan has already expired on 16-03-2000. The applicant had applied before the respondents for issuance of appointment order under SRO-43 of 1994 but till date nothing has been done to the case of the applicant when the fact is that the deceased mother of the applicant was the only source of income in the family of the applicant, 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;

Whereas, the examination of record in this office has revealed that after death of mother of the applicant Late Sharifa Bano Ex-FMPHW, Block Mahore R/O Village Thuroo, Tehsil Thuroo District Reasi, on 08-09-2001, the elder son of the deceased employee and brother of the applicant namely Sh. Mohd Arif S/O Late Mohd Sultan, who was one of the dependents as per dependent certificate issued by SDM Darmari, had applied for appointment on compassionate grounds vide application dated 02-06-2016. Since, the application of Sh. Mohd Arif for appointment under SRO-43 of 1994 was beyond the time bar for applying provided under rules as such according to Sub rule (ii) of Rule 4 of J&K Compassionate Appointment Rules, 1994, which provides that "*where any such appointment is to be made in relaxation of rules, such cases shall be submitted to the General Administration Department in co-ordination*" the case of Mohd. Arif was submitted to the Administrative Department, Health and Medical Education for consideration in relaxation of rules, and;

Whereas, the Administrative Department vide letter No:- HD/NG/103/2017, dated 16-06-2017 communicated that the case of Mohd. Arif S/O Late Sh. Mohd Sultan and late Smt. Sharifa Bano (Ex-FMPHW) is not covered under rules in terms of Rule (3) of SRO-43/1994 r/w SRO-177/2014, and;

Whereas, as per record in this office, the applicant Mohd Ikhlaq had applied before the Administrative Department by way of filing a representation, dated 12-02-2019, for consideration of his case for appointment under SRO-43 and never before that the applicant had applied for appointment under J&K Compassionate Appointment Rules, 1994, and;

Whereas, the applicant is not entitled for appointment in terms of proviso first and proviso second to Sub Rule (1) of Rule 3 of J&K Compassionate Appointment Rules, 1994 and amendments made thereof from time to time as neither he has applied within one year from the date of death of deceased employee nor has acquired eligibility within five years from the date of death of the deceased employee, and;

Whereas, the claim of the applicant for grant of family pension is to be considered by the Accountant General under rules.

Now, therefore, the case of the applicant for appointment on compassionate grounds and grant of pensionary benefits, has been accorded consideration, in deference to Hon'ble Central Administrative Tribunal orders and found devoid of merit, in view of the above stated factual position, hence rejected.

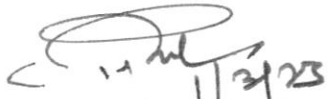
Sd/-  
(Dr.Saleem-ur-Rehman)  
Director Health Services  
Jammu

No:-DHSJ/Legal/16527-31

Dated: - 01 / 03 / 2023

Copy to the:-

1. Chief Medical Officer, Reasi for information.
2. Block Medical Officer, Mahore (Reasi) for information.
3. Private Secretary to Principal Secretary to Govt., Health and Medical Education Department, Civil Secretariat, Jammu for information.
4. I/C Official website, DHS, Jammu to upload the order.
5. Mohd. Ikhlaq S/O Mohd Sultan R/O Village Mahore, Tehsil Mahore, District Reasi for information.

  
(Dr. Rajeev K. Sharma)  
Dy. Director Health Services (HQ)  
Jammu