



Government of Jammu and Kashmir
Forest, Ecology and Environment Department
Civil Secretariat, J&K, Jammu/Srinagar

Subject: - O.A No. 61/671/2024 titled Shafkat Hussain V/s UT of J&K & Ors.

Government Order No. 291 - JK(FST) of 2024
Dated: 06 . 12.2024

Whereas, Mr. Shafkat Hussain S/o Late Sh. Ghulam Hussain Mochi, R/o Thatri Tehsil Thatri District Doda (herein referred as petitioner); had filed OA No.61/671/2024 titled Shafkat Hussain Vs Commissioner/Secretary to the Government, Forest, Ecology and Environment Department & others before the Central Administrative Tribunal, at Jammu praying for the following reliefs:-

1. Allow this original application of the applicant.
2. Quash the order vide No. FST-SR43/4/2021-2022 dated 01.03.2023 issued by respondent No. 2 whereby the compassionate appointment under SRO-43 of the applicant was rejected.
3. Direct the respondent no. 1 to reconsider the case of the applicant as per Annexure-A7 of this OA.
4. Any other writ, order or direction which this Hon'ble Tribunal may deem fit or proper in the facts and circumstances of the case.

Whereas, the O.A has been disposed of by the Hon'ble Tribunal vide its order dated 28.06.2024 relevant part thereof reads as under:-

"....5. Considering the above submissions, I deem it appropriate to dispose of the present Original Application without expressing opinion on the merits of the case, directing the Respondents to treat a copy this O.A. as representation of the applicant and reconsider his case for compassionate appointment keeping in view the judgments annexed at Annexure-A7 and, thereafter pass a reasoned and speaking order.

6. Respondents are further directed to communicate the order so passed to the applicant.

7. The whole exercise shall be undertaken within a period of four weeks from the date of receipt of certified copy of this order...."

Whereas, PCCF/Director, Department of Social Forestry, J&K Jammu vide letter No. DIR/DSF/Estt/962 dated 09-12-2022 had submitted compassionate appointment case of Sh. Shafkat Hussain S/o Late Sh. Gh. Hussain Mochi, deceased Helper R/o Thathri, Tehsil Thathri, District Doda for consideration under provisions of SRO-43 of 1994 and requested that the case of the applicant may be considered on merits for compassionate appointment in terms of Rule-4(i) of SRO-43 of 1994 dated 22.02.1994, as department has no Class-IV post available against which the applicant could be considered for compassionate appointment;

Whereas, Gh. Hussain Mochi was working as Helper in Social Forestry Division Doda and died in harness on 08-09-2012 as per the death certificate issued by the Registrar, Births and Deaths, Thathri Municipal Committee, under Registration No. 6 dated 05-03-2013 and the deceased left behind 04 (four) dependents as per dependent certificate issued by Sub Divisional Magistrate, Thathri vide his No. SDM/T/01-02 dated 22-06-2021;

Whereas, Rule-3 of SRO-43 of 1994 provides as under:-

3 – Appointment under these rules – (1) Notwithstanding anything contained in any rule or order for the time being in force regulating the procedure for recruitment in any service or post under the Government, an eligible family member of a person specified in rule 2 may be appointed against a vacancy in the lowest rank of non-gazetted service or Class IV post having qualification as prescribed under the relevant Recruitment Rules.

Provided that the applicant is eligible and qualified for such post or acquires such eligibility and qualification within a period of one year from the date of death of the deceased person specified in rule 2:

Provided further that no application for compassionate appointment under these rules shall be entertained after the expiry of one year from the date of death of the deceased person.

(2) Nothing in sub-rule (1) shall delegate from the powers of the Government in General Administration Department to appoint at its discretion a candidate to a higher post in the non-gazetted service if he/she is a family member of a deceased Government employee or a civilian killed in the militancy related action.

Whereas, the case of the applicant was examined in the department in its entirety and as per documents/certificates furnished by the Department of Social Forestry, J&K, it revealed that the death of the deceased occurred on 08.09.2012, as per the death certificate issued by the Registrar, Births and Deaths, Thathri Municipal Committee and applicant has applied for compassionate appointment under SRO-43 of 1994 before the Divisional Forest Officer, Social Forestry Division, Doda vide his application dated 23.06.2022, i.e. after a gap of more than 9 years from the date of death of his father. Furthermore, at the time of death of his father, the age of the applicant was 09 years & 03 days as per the date of birth recorded in his documents (05.09.2003) and requires relaxation of lower age bar by 9 years for making him eligible for appointment under SRO-43 of 1994. As such, the applicant was found ineligible for consideration under SRO-43 of 1994;

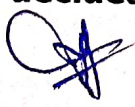
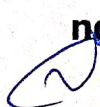
Whereas, vide this department's letter No. FST-SR43/2/2021 Dated 01.03.2023, the PCCF/Director, Department of Social Forestry, J&K was apprised that the applicant is ineligible for consideration under SRO-43 of 1994, as the case is not covered under relaxation policy of the Government, on aforesaid grounds.

Whereas, SRO-120 of 2018 dated 05.03.2018 provides as under:-

In rule 5, the following shall be 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 remarried), 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 compassion 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 instant case was also considered under SRO 120 of 2018 and it was found that the father (deceased employee) of the applicant had expired on 08.09.2012 and the applicant had applied for compassionate appointment in the year 2022 (application date 23.06.2022), i.e. after the issuance of the SRO-120 of 2018, dated 05.03.2018, as such, the case of the applicant does not fall under the purview of SRO-120 of 2018.

Now, therefore, keeping in view the afore-stated position, claim of the petitioner having been considered in deference to the order dated 28.06.2024 passed by the Hon'ble Central Administrative Tribunal in OA.61/671/2024, is found devoid of merits and therefore claim of the petitioner is rejected.

By Order of the Government of Jammu and Kashmir.

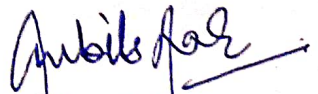
Sd/-
(Shailendra Kumar) IAS
Principal Secretary to the Government

No: FST-Lit/338/2024-02

Dated: 06.12.2024

Copy to the:-

1. Private Secretary to Ld. Advocate General, Jammu and Kashmir for kind information.
2. Joint Secretary (J&K), Ministry of Home Affairs, Government of India.
3. Director, Social Forestry, J&K.
4. Director, Archives, Archaeology and Museums, J&K.
5. Officer on Special Duty (OSD) with Hon'ble Minister, Forest, Ecology & Environment Department, Government of Jammu and Kashmir, for kind information of the Hon'ble Minister.
6. Private Secretary to the Principal Secretary Govt. Forest, Ecology & Environment Department.
7. I/c Website.
8. Government Order/Stock file (w.3.s.c)/Stock file.


(Ambika Bali)JKAS
Under Secretary to the Government