
(2025) 11 CAT CK 0064

In the Central Administrative Tribunal, Jammu Bench, Jammu

Case No : Original Application No. 1548 Of 2023

Anita Devi

APPELLANT

Vs

Union Of Territory Of J&K & Ors

RESPONDENT

Date of Decision : 24-11-2025

Acts Referred:

Citation : (2025) 11 CAT CK 0064

Hon'ble Judges : Rajinder Singh Dogra, Member (J)

Bench : Single Bench

Advocate : Manpreet Kour, Rajesh Thapa

Final Decision : Disposed Of

Judgement

Rajinder Singh Dogra, Member (J)

1. Heard learned counsel for the both the parties and perused the records.
2. Through this Original Application, applicant has prayed for the following reliefs:
 - i. To quash the Order no. 1021 Dated 27.07.2022 issued by the respondent no. 3 by which the respondent no. 3 has rejected the case of the applicant for appointment on compassionate grounds by issuance of Writ of Certiorari,
 - ii. To issue directions the respondents to appoint the applicant on a suitable post on compassionate grounds under the provisions of SRO 43 of 1994 on account of death of her husband namely Sh. Sanjeev Kumar who died in an accident while driving the official vehicle of the respondents and under active employment of respondents, by issuance of writ of Mandamus;
 - iii. To declare the Order no. 1021 Dated 27.07.2022 issued by the respondent no. 3 by which the respondent no. 3 has rejected the case of the applicant for appointment on compassionate grounds as ultra-vires, unconstitutional, arbitrary, illegal, unjust and contrary to the provisions of SRO 43 of 1994 and provisions of Principle of Natural Justice by issuance of writ of Mandamus; OR

Any other order or directions which the Hon'ble Court may deem just and proper in the facts and circumstances of the case.

3. Tersely put, the case of the applicant is that the husband of the applicant, namely, Sanjeev Kumar worked as Daily Wager (CP Worker) in the Respondent Department. The husband of the applicant died in a road accident while performing the official duties on the post of the Driver on 17.05.2019. The applicant being wife after the death of husband applied for appointment on compassionate grounds within time but the case of the applicant has been rejected without adhering to the provisions of Law and provisions of SRO 43 of 1994. The applicant being aggrieved of non-consideration of the application of the applicant for grant of appointment on compassionate grounds, the applicant approached this Tribunal by filing of OA No. 1374/2021 which was disposed of on 10.09.2021 by directing to the respondents to take a decision in the matter by passing a reasoned and speaking order. In compliance of the aforesaid order, the respondents have passed Order No. 1021 dated 27.07.2022 by which the case of the applicant for grant of appointment on compassionate grounds is rejected. Hence, the present petition.

4. Learned counsel for the applicant submitted that the deceased husband of the applicant who was serving under the respondents though on Daily Wage Basis was entitled for permanent appointment/regular appointment under the provisions of J&K (Special Provisions) Act, 2010 because the husband of the applicant was engaged in January, 2002 and even the provisions of SRO 520 of 2017. Provisions of SRO 43 of 1994 is applicable to the applicant since it is nowhere mentioned that it is only for the benefit of Regular employee or Temporary Government Employee alone. It is applicable to the persons who are even serving on Daily Wage Basis because Daily Wage Basis workers also performed duties in connection with affairs of State of J&K.

5. Learned counsel for the applicant also submitted that the husband of the applicant rendered 17 years and 05 months service. So, the applicant can be appointed on compassionate grounds on a permanent post because husband of the applicant become eligible for regularization and respondents instead of extending the benefit of permanent absorption engaged the applicant on daily wage basis which is against the provisions of Compassionate Appointment Rules.

6. Mr. Rajesh Thapa, learned AAG vehemently opposed the prayer of Id. counsel for the applicant and submitted that SRO 43 of 1994 is applicable to a Govt. employee and a Govt. employee is an employee who is holding a lien on a substantive post. However, the applicant's husband was engaged as CP worker, hence, as per SRO 43 of 1994, no case for compassionate grounds is made out.

7. I have heard both the parties and gone through the records and come to the conclusion that the deceased husband of the applicant was died after rendering his service for a period of 17 years and 5 months which is beyond of seven years qualifying service for permanent absorption. Regarding this case, some of the

judgement passed by Hon'ble High Court of J&K at Jammu is as under:

8. In 'Sureksha Rani vs. State of J&K & Ors.' passed in SWP No. 1236/1997 in which the Hon'ble Court held that:

"4.(i) in the matter of making compassionate appointment the paramount consideration is to see that the members of the deceased family are provided with relief which would mitigate the financial crisis.

(ii) the word "acquire" denotes a conscious act. An effort is made to obtain something. Eligibility on account of death is an event which can never be acquired.

(iii) the period of six months limitation prescribed in the Rule 3 would apply only to acquisition of eligibility qua educational technical and other qualifications,

(iv) that the rules of 1994 are not retrospective. This would govern only those cases where death has taken place after 22.2.1994. The old cases would be continued to be governed by the Old Rules.

(v) that the government is within its rights to relax any of the Rules and if the Government comes to the conclusion that financial crisis is still being faced by the family and as that is the basic factor which guides the authorities in making compassionate appointment, the government can still make appointment notwithstanding the prescription of the period of limitation,

(vi) that in all cases what is required to be seen is that the hardship which the family is suffering is required to be mitigated. If the family is not-suffering any hardship then notwithstanding the presence of all other criteria, the appointment can be denied. If the family is suffering from hardship then compassion has to be shown. Rules can be relaxed.

State has to show benevolence."

9. In 'Sunita Rani vs. State of J&K & Ors. passed in SWP No. 1057 of 2012 in which the Hon'ble Court held that:

".....the Provisions of Civil Services (Special Provisions), Act 2010. Section 3 of the aforementioned Act clearly envisages the application of the Act to persons appointed on adhoc, contractual consolidated pay basis, provided that such appointments have been made against the clear vacancies. Section 5 of the Act, inter alia, envisages that a person working on consolidated basis shall be regularized on fulfillment of certain conditions, most important of which is, that he should have completed seven years of service as such on the appointment date."

10. In 'Safia Begum vs. State of J&K & Ors.' passed in SWP No. 1357 of 2005 in which the Hon'ble Court held that:

"4."In my opinion SRO 43 of 1994 merely talks of a person who is a Government employee. It is not for the benefit of regular employees alone.

Petitioner's husband was working on daily wages. He was performing duty in connection with affairs of State of Jammu and Kashmir. He would as such, be entitled to the benefit of rules contained in SRO 43 of 1994 referred to above."

11. In view of the aforesaid law laid down by the Hon'ble High Court, O.A. No. 1548 of 2023 is disposed of with direction to respondents to consider the case of the applicant for grant of compassionate grounds appointment keeping in view that applicant's husband has rendered 17 years and 05 months service as daily wager in the department and for regularization only 7 years qualifying service is required, hence, applicant's husband shall be deemed regularized employee and keeping in mind the rules & law discussed above for the compassionate appointment.

The needful exercise shall be carried out within a period of three months from the date of receipt of certified copy of this order. The decision, so taken, shall be communicated to the applicant forthwith.

12. However, there shall be no orders as to costs.