
(2025) 06 CAT CK 0162

In the Central Administrative Tribunal, Jammu Bench, Jammu

Case No : Original Application No. 61, 931 Of 2023

Basharat Hussain

APPELLANT

Vs

Union Territory Of Jammu And Kashmir & Ors.

RESPONDENT

Date of Decision : 02-06-2025

Acts Referred:

Administrative Tribunals Act, 1985 — Section 19
Constitution Of India, 1950 — Article 14, 21

Citation : (2025) 06 CAT CK 0162

Hon'ble Judges : Rajinder Singh Dogra, Member (J); Ram Mohan Johri, Member (A)

Bench : Division Bench

Advocate : Arshid Pervaiz Malik, Hunar Gupta

Final Decision : Allowed

Judgement

Rajinder Singh Dogra, Member J

1. The instant Original Application has been filed by the applicants under Section 19 of Administrative Tribunals Act, 1985 making therein the following reliefs: -

i. Quashing the office order No.CEJ/Adm/Court/DPC 48 of 2022 dated 18-05-2022 issued by the respondent No.3 by virtue of which the claim of the applicant has been rejected illegally, arbitrarily, malafidely and without taking into consideration the judgment dated 26-11-2010 passed in LPASW No.50/2010 titled "State of J&K and ors V/s Safia Begum;

ii. direct the respondents to appoint the applicant for compassionate appointment under SRO-43 of 1994 on account of death of his father who died on 29-11-2020 while in active service in JPDCL while performing his duty at Fatehpur area due to electrocution/repairing of transformer of JPDCL/PDD Department and also grant exgratia relief in favour of the applicant so that he can maintain his family properly in terms of judgment dated 26-11-2010 passed in LPASW No.50/2010 titled "State of J&K and ors V/s Safia Begum" by the Hon'ble Division Bench of

Jammu & Kashmir;

iii. Direct the respondents to reconsider the case of the applicant for his appointment in JPDCL under SRO 43 of 1994 (Compassionate Appointment Rules) in the light of judgment dated 26-11-2010 passed in LPASW No.50/2010 titled "State of J&K and ors V/s Safia Begum" by the Hon'ble Division Bench of Jammu & Kashmir."

By medium of instant Original Application the applicant is seeking quashing of Office Order No. CEJ/Adm/Court/DPC/48 of 2022 dated 18.05.2022, issued by respondent No. 3, which rejected the applicant's claim for compassionate appointment under the Jammu and Kashmir (Compassionate Appointment) Rules, 1994 (SRO 43 of 1994). Additionally, the applicant prays for a direction to the respondents to appoint him under the aforementioned rules and provide ex gratia relief following the tragic and untimely death of his father, Sh. Sarwar Khan, in active service with the Power Development Department (now JPDCL).

2. Facts of the case in a nutshell are: -

i. The applicant is a permanent resident of the Union Territory of Jammu and Kashmir, and a citizen of India. He is the son of Late Sh. Sarwar Khan, who served as a daily wager in the Power Development Department (PDD) of J&K since the year 2000. Tragically, on 29.11.2020, while performing his duties as a daily wager in the JPDCL at Fatehpur, the deceased suffered a fatal electrocution during the repair of a power transformer. This untimely death occurred while the deceased was on active duty in the service of the respondents. The incident was duly recorded in an FIR, the Form of Reporting Electrical Accidents, and confirmed by a post-mortem report.

ii. Upon the death of his father, the applicant sought compassionate appointment under SRO 43 of 1994, in line with his educational qualifications and the requirements for compassionate appointments. He submitted the necessary documentation, including his father's death certificate, accident report, and qualification certificates.

iii. In response, the Executive Engineer of JPDCL, Rajouri (respondent No. 5), vide communication No. EDP/455 dated 11.05.2021, recommended the applicant for engagement as a Need-Based Worker in place of his father. A copy of this recommendation is annexed as Annexure A3. However, despite this recommendation, the applicant's claim was rejected by the respondents, leading to the filing of the present Original Application.

3. Legal Issues and Precedents:-

i. The core issue that arises in this case is whether the applicant is entitled to compassionate appointment under SRO 43 of 1994, despite his father having been a daily wager and not a permanent employee of the government. The applicant asserts that he is entitled to such an appointment in light of the binding judicial precedent in State of J&K and Ors. v. Safia Begum (LPASW No. 50/2010),

wherein the Hon'ble Division Bench of the Jammu and Kashmir High Court ruled that the term "Government employee" under SRO 43 of 1994 includes temporary and ad-hoc employees as well as daily wagers.

ii. In this context, it is important to recall the significant pronouncements of the Hon'ble Supreme Court and various High Courts that have consistently supported the inclusion of daily wagers in the scope of compassionate appointments. In *Balbir Kaur v. Steel Authority of India Ltd.*, (2000) 6 SCC 493, the Hon'ble Supreme Court observed:

a. "Compassionate appointment is not a matter of charity but a statutory obligation, aimed at providing immediate relief to the family of the deceased government servant to mitigate the hardship they face due to the loss of their breadwinner."

iii. This Tribunal concurs with the spirit of these decisions and finds that the respondents' actions in denying the applicant's claim not only violate the principles laid down in the above-stated cases but also defy the settled law regarding compassionate appointments. The applicant's entitlement to compassionate appointment is further supported by the judgment in *Umesh Kumar Nagpal v. State of Haryana*, (1994) 4 SCC 138, wherein it was reiterated that:

a. "The object of compassionate appointment is to provide immediate relief to the family of the deceased government servant who has died in harness, and not to provide long-term employment opportunities. The scheme must be interpreted liberally to fulfill its purpose."

iv. Furthermore, in *State of J&K & Ors. v. Safia Begum* (LPASW No. 50/2010 dated 26.11.2010), the Hon'ble Division Bench held that:

a. "The expression 'Government employee' in Rule 2 of SRO 43 of 1994 is not limited to permanent employees but extends to those employees who have been employed on a daily wage or ad-hoc basis but have rendered continuous service. The family members of such employees are entitled to compassionate appointment upon the employee's death in harness."

v. This judgment is a binding precedent, and it is unambiguously clear that the applicant, whose father was a daily wager in continuous service with the respondents, is entitled to the benefits of compassionate appointment under SRO 43 of 1994.

4. Respondents' Defence: -

i. In their reply, the respondents have raised certain defences, including the assertion that the judgment in *Safia Begum* was not meant to apply universally, and that no amendment has been made to the J&K (Compassionate Appointment) Rules to accommodate daily wagers. However, this argument is without merit. The judgment in *Safia Begum* is not merely a judgment in

personam but a judgment in rem, interpreting a statutory rule and establishing a legal precedent that must be followed by all authorities within the jurisdiction. The respondents cannot selectively ignore this binding precedent on the grounds that they have not amended their internal policies. To do so would be to disregard the very foundation of judicial discipline and accountability.

ii. Additionally, the respondents' reference to another case involving the School Education Department (SWP No. 2278/2017 titled *Gulzar Ahmad Mir v. State & Ors.*) is irrelevant. The fact that another department has not implemented the *Safia Begum* judgment cannot justify the non-implementation of this well-established principle in the current case. The respondents are legally bound by the judgment of the Hon'ble Division Bench in *Safia Begum*, and their failure to comply with it constitutes an unlawful denial of the applicant's legitimate entitlement.

5. Analysis: -

I. Misinterpretation of the Judgment in *Safia Begum* (Supra): The respondents have attempted to dismiss the applicant's entitlement to compassionate appointment by misinterpreting the landmark ruling in *State of J&K and Ors. v. Safia Begum* (LPASW No. 50/2010), which clearly establishes that daily wagers, temporary, and ad-hoc employees are eligible for compassionate appointments.

The respondents claim that no amendment has been made to the Jammu and Kashmir (Compassionate Appointment) Rules, 1994, as a result of this judgment. However, the legal implication of this judgment is that the rules themselves do not exclude daily wagers from the scope of the compassionate appointment scheme. The judgment clarifies that "government employee" under these rules includes all types of employees who were in active service at the time of their death, including daily wagers, ad-hoc employees, and temporary workers.

The respondents cannot ignore the binding nature of this judicial pronouncement, which specifically includes workers like the applicant's father, Sh. Sarwar Khan, who had been working continuously since 2000 and died in the course of his duties in 2020. The respondent's claim that the judgment is inapplicable to the applicant's case is therefore incorrect, as it contradicts well-established legal principles, which have been affirmed in similar cases. The jurisprudence of *Safia Begum* applies squarely to the applicant's case and establishes a clear entitlement to compassionate appointment.

II. Claim of "Ban" on Casual/Seasonal Appointments: The respondents argue that a ban on casual/seasonal labour appointments has been in effect since 2015, implying that this policy restricts the appointment of the applicant on compassionate grounds. However, this defense is both misleading and unsubstantiated in the context of compassionate appointments.

First, the ban mentioned by the respondents is related to general recruitment policies for casual or seasonal labour but does not override the clear statutory

provisions of SRO 43 of 1994, which specifically addresses compassionate appointments in the event of a government employee's untimely death. The policy in question cannot take precedence over the legal obligation of the government to grant compassionate appointments to eligible family members under SRO 43.

Additionally, the Hon'ble Supreme Court in *Balbir Kaur v. Steel Authority of India Ltd.* (2000) 6 SCC 493 affirmed that compassionate appointments are not acts of charity but a legal entitlement aimed at relieving the financial distress faced by the family of the deceased government servant. Thus, the "ban" on casual appointments does not apply to compassionate appointment claims, which are governed by a separate set of rules and constitutional principles. Therefore, this claim by the respondents fails to provide a valid defense.

III. Failure to Follow Tribunal's Directions in OA No.326/2022: The respondents have been in willful defiance of the directions issued by this Tribunal in OA No. 326/2022, which ordered them to consider the applicant's representation for compassionate appointment and decide it within a specific period.

The failure to comply with these clear instructions demonstrates not only non-compliance with judicial orders but also a deliberate attempt to evade the applicant's rightful claim. The respondents' defense that no action was taken is not supported by the record, as they have failed to provide any evidence that they complied with the Tribunal's order within the prescribed time frame.

The contempt petition (CP No. 259/2022), filed by the applicant, highlights the respondents' continued intransigence in the face of judicial directives. The doctrine of contempt of court should apply here, as the respondents have ignored the Tribunal's order and further delayed the resolution of the applicant's case, exacerbating his family's suffering. The respondents cannot claim that they were unaware of the Tribunal's directives or that they were not obligated to act upon them.

IV. Wrongful Rejection of the Applicant's Claim Based on Employment Status: The respondents' rejection of the applicant's claim on the basis that his father was a "need-based worker" is a misleading and irrelevant distinction that has no legal basis in the context of compassionate appointment rules. The legal framework under SRO 43 does not make any such distinction between permanent, temporary, or need-based workers when considering entitlement to compassionate appointment.

The SRO 43 of 1994 is clear in its applicability to all government employees, including those on daily wage or temporary contracts. The *Safia Begum* ruling (*supra*) categorically established that the designation or nature of employment (whether need-based, ad-hoc, or temporary) does not disqualify a family member from compassionate appointment. Thus, the argument by the respondents that the applicant's father's status as a need-based worker disqualifies him from the compassionate appointment scheme is entirely

misconceived and without merit.

The right to compassionate appointment should not be contingent on the type of employment or a policy that bars casual appointments, as SRO 43 creates a legal entitlement based on the family's financial distress following the death of the breadwinner. The applicant's father served continuously in a critical capacity for over two decades, and his death while on duty was both tragic and directly tied to the responsibilities of his employment. The respondents' failure to recognize this and to grant the applicant compassionate appointment undermines the very purpose of SRO 43.

V. Unreasonable Delay in Granting Relief: The respondents' continuous delay in addressing the applicant's claim for compassionate appointment, despite all legal formalities and the clear directives from this Hon'ble Tribunal, violates the principles of natural justice and public policy. The purpose of compassionate appointments is to provide immediate relief to families facing sudden financial hardship due to the untimely death of a government employee. The prolonged inaction by the respondents defeats this purpose, compounding the applicant's hardship.

The principle of promptness in compassionate appointments has been emphasized in numerous judicial pronouncements. In *Union of India v. Shri Ramesh Babu* (1998) 1 SCC 81, the Hon'ble Supreme Court reiterated that compassionate appointments must be processed with reasonable speed to prevent undue delay in relieving the family's distress. The respondents' inaction has left the applicant and his family in financial turmoil, demonstrating a failure to follow this fundamental principle of justice and the purpose behind the compassionate appointment scheme.

6. Conclusion: -

i. After considering the facts, circumstances, and the respective arguments presented by both the applicant and the respondents, this Tribunal finds that the applicant's claim for compassionate appointment is justifiable and legally sound. The applicant's father, Sh. Sarwar Khan, who was a daily wager employed in the Jammu and Kashmir Power Development Department (JPDCL/PDD), tragically lost his life while performing his duties in active service. The untimely death of the breadwinner has created significant financial hardship for the applicant's family, and as per the Jammu & Kashmir (Compassionate Appointment) Rules, 1994 (SRO 43), the applicant is entitled to relief through compassionate appointment as a family member of a deceased government employee.

ii. The respondents' refusal to grant the applicant compassionate appointment, based on the claim that the father's status as a "need-based worker" disqualifies him, is a misinterpretation of the legal provisions. The judgment in *State of J&K v. Safia Begum* (LPASW No. 50/2010) has explicitly confirmed that employees, including daily wagers and ad-hoc workers, are entitled to compassionate appointments upon their death in service. This legal principle applies to the

applicant's case, and the respondents' rejection of the applicant's claim on flimsy grounds is both arbitrary and illegal.

iii. The respondents have also failed to comply with the Tribunal's earlier orders in OA No. 326/2022, which directed them to process the applicant's representation for compassionate appointment within a set timeframe. Their non-compliance with these directions constitutes willful disobedience of a court order, and this Tribunal finds that the applicant's rights under Article 14 (Right to Equality) and Article 21 (Right to Livelihood) of the Constitution of India have been clearly violated.

iv. The respondents' argument regarding a ban on casual/seasonal appointments does not hold water in this case, as the ban applies to general recruitments and does not affect appointments made under SRO 43, which are meant to relieve the financial distress caused by the untimely death of a government employee. Therefore, this argument is not valid for denying the applicant his rightful claim.

v. Further, the prolonged delay in granting the applicant the compassionate appointment is not only unjustifiable but also inhumane, as it exacerbates the financial burden faced by the applicant's family. The purpose of the compassionate appointment scheme is to provide immediate relief to the family of the deceased employee, and the respondents' delay is a clear violation of this purpose.

7. In view of the facts, circumstances, and detailed analysis of the case, the Original Application is allowed with the following directions: -

i. The Office Order No. CEJ/Adm/Court/DPC/48 of 2022 dated 18.05.2022, issued by the respondents, rejecting the applicant's claim for compassionate appointment, is hereby quashed as illegal, arbitrary, and mala fide. The rejection is based on incorrect legal grounds, and the failure to follow the Tribunal's earlier orders constitutes a serious violation of the applicant's rights.

ii. The respondents are directed to grant the applicant compassionate appointment under the Jammu and Kashmir (Compassionate Appointment) Rules, 1994 (SRO 43 of 1994), on account of the untimely demise of his father, Sh. Sarwar Khan, who died on 29.11.2020 while performing his duties in active service with the JPDCL/PDD Department. The appointment shall be made in terms of the binding judgment of the Hon'ble Division Bench in State of J&K v. Safia Begum (LPASW No. 50/2010), and in accordance with the applicant's qualifications and eligibility.

iii. The respondents are further directed to process and release ex gratia relief in favour of the applicant in accordance with the applicable provisions of SRO 43 of 1994, having regard to the tragic circumstances in which the deceased employee lost his life while discharging his official duties. The ex-gratia relief shall be disbursed to the applicant within a period of eight weeks from the date of receipt of a certified copy of this order.

iv. The entire process of compassionate appointment and disbursement of ex-gratia relief shall be completed within eight weeks from the date of receipt of this order, without any further delay, failing which the applicant shall be at liberty to seek execution and/or initiate contempt proceedings before this Tribunal.