

(2008) 06 J&K CK 0014
In the Jammu And Kashmir High Court

Mukhtar Ahmad Rather

APPELLANT

Vs

State of Jammu & Kashmir and Others

RESPONDENT

Date of Decision : 03-06-2008

Acts Referred:

Citation : (2008) 3 JKJ 104

Hon'ble Judges : Mansoor Ahmad Mir, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Mansoor Ahmad Mir, J.—Petitioner has invoked jurisdiction of this Court for commanding the respondents to appoint him on

compassionate grounds in terms of SRO 43 of 1994 on the ground that his father while working as Constable in the Police Department died in

harness on 15-1-1986, when at that time, petitioner was a minor. It is further averred that on attaining the age of majority, he approached the

respondents for appointing him, but with no success, which constrained him to file the present petition.

2. Respondents have filed reply in which it is pleaded that the petitioner's father passed away on 24-1-1986 i.e. 20 years back and as per age

disclosed by the petitioner in his petition, he was not born, though he has pleaded that he was minor at that time. It is also projected that now that

the petitioner has attained the prescribed age, he is claiming appointment on compassionate rounds in terms of SRO 43 of 1994. It is further case

of the respondents that the appointment on compassionate grounds cannot be made after lapse of reasonable period and claim to such employment

is not a vested right which can be exercised at any time in future.

3. Heard learned Counsel for the parties. It is the case of the petitioner that he was minor at the time when his father expired and on attaining the prescribed age in 2003, he applied to the respondents for appointment on compassionate grounds. Thus he was not eligible for consideration in terms of SRO 43 of 1994 in the year 2003 or within six months there-after, as provided by Rule 3 of SRO 43, which reads 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 posts 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 a non-gazetted having qualification above Matriculation or to a class IV post if the candidate has read up to Matric.

Provided that the applicant is eligible and qualified or acquires eligibility and qualification within a period of six months from the death of the deceased person specified in rule 2.

4. While going through the aforesaid rule, it is crystal clear that in order to seek appointment under SRO 43 of 1994, the candidate should have passed matriculation examination or read up to matric and should have attained the age of majority at the relevant point of time and should be eligible at the time of death of the deceased or should have acquired eligibility within six months.

5. As stated hereinabove, the petitioner was minor at the time of death of his deceased father and thus was not eligible for appointment in terms of the above referred Rule. He has attained the age of 18 years in 2003, thus cannot be considered in terms of SRO 43 of 1994. I am fortified in my view by a judgment of this Court in case Romesh Singh Vs. State of Jammu & Kashmir and Others, .

6. The employment on compassionate ground is given only on pure humanitarian consideration and no appointment can be claimed as a matter of right. It is only to save the dependents of the deceased employees from distress, vagrancy and destitution. The petitioner and his family members survived for these twenty years and the said purpose has come to an end. I am fortified in my view by the judgment of the Supreme Court in case Haryana State Electricity Board Vs. Krishna Devi, . Viewed thus the petition merits to be dismissed.

7. In view of the above discussion, there is no force in the petition which is accordingly dismissed.