
(2025) 07 CAT CK 0430

In the Central Administrative Tribunal, Jammu Bench, Jammu

Case No : Transferred Application No. 8504 Of 2021

Navneet Kumar

APPELLANT

Vs

State Of J&K Through Commissioner/Secretary To Govt.,
General Administration Department, Civil Secretariat, Jammu
& Ors.

RESPONDENT

Date of Decision : 30-07-2025

Acts Referred:

Citation : (2025) 07 CAT CK 0430

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

Bench : Division Bench

Advocate : Abhinav Sharma, Sudesh Magotra, Hunar Gupta

Final Decision : Disposed Of

Judgement

Rajinder Singh Dogra, Member (J)

1. The instant petition has been filed by Id. counsel for the applicant with following relief:

i. Allow the present petition.

ii. Command and direct the respondents to appoint the applicant in suitable Govt. Service (as per his qualification) on compassionate ground w.e.f. the date, the applicant has attained the majority i.e., 24.08.2012.

iii. Command and direct the respondent no. 1 to issue appointment orders in favour of the applicant, once respondent no. 2 has furnished all the documents sought by respondent no. 3, vide his/her letter/communication no. Rev/NG/287/2012 dated 20.03.2013.

2. The brief facts of the case:

The brief facts of the case are that the applicant's father was working as Patwari

in Revenue Department and died in harness on 23.05.2005, when the applicant was only 10 years and 10 months old. Later, the applicant applied under SRO 43 seeking appointment on compassionate grounds. The case of the applicant was processed and finally was put before respondent No. 2, who, vide communication dated 20.03.2013 sought certain documents from respondent No. 2 and accordingly respondents No. 2 submitted the requisite documents. No progress has been made in the case of appointment on compassionate of the applicant despite completion of all the requisite formalities. Now, the applicant has been verbally told that since the mother of the applicant was in Government service the applicant was not entitled to appointment on compassionate grounds. The applicant being aggrieved, is knocking at the doors of justice, through the medium of the instant petition, seeking direction to the respondents, more particularly respondent No. 1, to issue appointment orders in favour of the applicant on the grounds enumerated in the writ petition. Hence, the present petition.

3. Arguments made by Id. counsel for the applicant:

(i.) Ld. counsel for the applicant submitted that the applicant has passed B.A part-II examination from Jammu University and the same is evident from the certificates issued by the University of Jammu. Copies of the Age Certificate & qualification certificates are enclosed herewith and marked as Annexures-A collectively. The late father of the applicant was working in Revenue Department as Patwari and died in harness on while 23.06.2005, under Treatment in Government Medical College Jammu. Copy of Death Certificate dated 21.07.2005 issued by Government College Jammu is enclosed herewith and marked as Annexure-B.

(ii.) Ld. Counsel for the applicant further submitted that at the time of the Death in harness of his father, the applicant was aged only 10 years and 10 months and attained majority only on 24.08.2012. The applicant applied before respondent No. 5 i.e Deputy Commissioner Jammu under SRO 43 with request to appoint the applicant on compassionate grounds in place of his father in Revenue Department. Copy of the application seeking appointment on compassionate grounds is enclosed herewith and marked as Annexure- C. On the application of the applicant, Dependent Certificate was issued in favour of the applicant by Assistant Commissioner (Rev), Jammu, vide his No. DCJ/Misc/SRO-43/110 dated 01-12-2006, showing the applicant (Navneet Sharma) as dependent son, mother of the applicant (Soma Devi) two daughters and one more son as the other dependents of the father of the deceased late Yashpal. Copy of Dependant Certificate dated 01.12.2006 is enclosed herewith and marked as Annexure-D. The applicant is in possession of the PRC showing the applicant as Permanent Resident of village Maira, (then) Tehsil Akhnoor (noe Tehsil Jorian) of District Jammu. Copy of Permanent Resident Certificate is enclosed herewith and marked as Annexure-E. (iii.) Ld. Counsel for the applicant also submitted that the case for appointment of the applicant is a Govt. service on compassionate grounds

under SRO 43 was forwarded by respondent No. 5 to respondent No. 4, and in response to the same office letter No. 101/31/SRO-43/3/226-27 dated 17.12.2012, respondent No. 4, required respondent No. 5 to send the originals of the requisite documents to respondent No. 4 and in response to the same respondent No. 5, vide letter No. DCJ/ADM/PF-SRO-43/274 dated 29.05.2012 forwarded the required documents. Copy of the letter No. DCJ/ADM/PF-SRO-43/274 dated 29.05.2012 is enclosed herewith and marked as Annexure-F. The case of the applicant for appointment on compassionate grounds was further processed in the Administrative Department and in this regard, respondent No. 3, vide letter No. Rev/NG/287/2012 dated 20.03.2013, requested respondent No. 2, to furnish the following documents to enable the Department to take further action in the matter:

- (1) Application of the Applicant in Original
- (2) Attested copy of the Death Certificate
- (3) Attested Copy of Qualification Certificate
- (4) Attested Copy of date of birth
- (5) Dependent Certificate in original

Copy of the letter No. Rev/NG/287/2012 dated 20.03.2013 is enclosed herewith and marked as Annexure-G.

(iv.) Ld. Counsel for the applicant also submitted that the respondent No. 2 did as desired and that matter is pending before respondent No. 1 for final approval of appointment. Nothing, (but extending of verbal assurances) has been done in this matter by the respondents till date, despite reminder sent by the applicant through a representation made early this year. Copy of the representation is enclosed herewith and marked as Annexure-H.

(v.) Ld. Counsel for the applicant also submitted that on personal enquiry made by the applicant, the respondents have informed the applicant that since the mother of the applicant is in Government service, the applicant cannot be appointed on compassionate grounds under SRO 43 in view of the instant policy of the Government. There is no such policy, or rule under which provisions of SRO 43 do not apply to the applicant, simply because the mother of the applicant was in Government service. It is stated that mother of the applicant was already in Government service on the date, the father of the applicant died and if at all there are some Government instructions, which say that the dependents of a Government servant become disentitled to compassionate appointment once any member of the family is in Government service, such instructions have no legal basis and authority. Aggrieved of the inaction on the part of the respondents, more particularly respondent No. 1, in delaying the matter of appointment on compassionate the grounds, applicant on the applicant challenges the same.

4. Arguments made by Id. counsel for the respondents:

(i.) Mr. Sudesh Magotra, Id. AAG and Mr. Hunar Gupta, Id. DAG appeared for the respondents and vehemently opposed the prayer made by Id. counsel for the applicant.

(ii.) Mr. Hunar Gupta, Id. DAG submitted that the father of the applicant namely late Sh. Yash Pal Sharma was working as Patwari and died in harness on 23.06.2005 and at the time of death the applicant was a minor.

(iii.) Id. DAG further submitted that the dependent certificate was inadvertently issued despite the fact that the widow of the deceased (mother of the applicant) was in Govt. service at the time of death of the father of the applicant. After verification, it has come to force that the mother of the applicant was in Govt. service, therefore the case of the applicant is not eligible for compassionate appointment. Moreover, after 19 years of the death of father of the applicant, the element of compassion does not exist, hence the T.A is deserved to be dismissed.

5. Conclusions:

From the perusal of the facts, pleadings, and arguments advanced by both parties, the following conclusion emerges:

(i.) The applicant's father, a Patwari in the Revenue Department, died in harness on 23.06.2005, leaving behind the applicant, then a minor, as one of the legal dependents. Upon attaining majority on 24.08.2012, the applicant submitted a request for compassionate appointment under the provisions of SRO 43. The application was duly processed and all requisite documents, including the Dependent Certificate, were submitted and acknowledged by the competent authorities. The matter remained pending for years without formal rejection or final decision.

(ii.) The contention that the dependent certificate was "inadvertently issued" despite the mother of the applicant being in Government service is wholly without merit. The dependent certificate dated 01.12.2006 was issued by the competent authority, Assistant Commissioner (Rev), Jammu, after due verification and in accordance with the prescribed norms under SRO 43. This certificate cannot be brushed aside as a mere oversight or mistake. It constitutes official recognition of the applicant's status as a dependent.

(iii.) The respondents have failed to produce any rule, regulation, or Government policy which disqualifies a dependent child from compassionate appointment merely because another family member (in this case, the mother) is employed in Government service. Absent such a statutory or policy bar, the applicant's claim stands valid and enforceable.

(iv.) The delay in making the application is sufficiently explained by the fact that the applicant was a minor at the time of his father's death and submitted the application soon after attaining majority. The subsequent administrative delays are attributable to the inaction of the authorities rather than any fault of the applicant.

(v.) Therefore, the grounds taken by the respondents are neither legally sustainable nor supported by any statutory rule. The plea that the element of compassion is lost due to the passage of time is also unconvincing, especially when the delay is primarily administrative and not deliberate or negligent on part of the applicant.

(vi.) In view of the above, the applicant has made out a prima facie case for consideration under SRO 43. The matter warrants a direction to the respondents to decide the applicant's case in a time-bound manner, in accordance with law, without being influenced by extraneous or non-statutory considerations.

6. With these directions, the Transferred Application No. 8504 of 2021 is disposed of.

7. However, there shall be no order as to costs.

8. Interim order, if any, stands vacated.