

Government of Jammu and Kashmir
Home Department
Civil Secretariat Jammu

Subject :- Compassionate appointment case of Mst. Gul Nahiem W/o late Constable Mohd Zaif No. 515/R (PID No. EXJ-995922) R/o Dhanour Dhandian, Tehsil and District Rajouri under SRO-43 of 1994.

Government Order No: 15 -Home of 2022

Dated: 18 .01.2022

1. Whereas, Sh. Mohammad Zaif, Constable No. 515/R (PID No. EXJ-995922) died in harness on 20.05.2017 and the case of her wife Mst. Gul Nahiem was forwarded to the Home Department by the PHQ vide letter No. Pers-A-125/2018-2492-95 dated 11.01.2019 for consideration of appointment under SRO-43 of 1994; and
2. Whereas, the Home Department vide letter No. Home/SRO-43/03/2019 dated 13.05.2019 conveyed to the PHQ to consider the compassionate appointment case of the applicant in any of the newly created Woman Battalion in terms of Rule 3 (1) of SRO-43 of 1994; and
3. Whereas, the PHQ vide communication No. Pers-A-125/2018/11636-38 dated 19.02.2020, informed the Home Department that Mst. Gul Nahiem w/o Late Constable Mohammad Zaif, has shown unwillingness for her appointment in the Police Department and has requested for her appointment in a civil department; and
4. Whereas, the case of the Mst. Gul Nahiem was again considered but since there was no change in the facts and circumstances of the case necessitating taking of a different view, therefore Home Department in its communication No. Home/SRO-43/03/2019 dated 05.05.2020 reiterated its stand conveyed earlier vide letter dated 13.05.2019 and conveyed the same to PHQ; and
5. Whereas, the applicant filed an OA No. 61/937/2020 titled Gul Nahiem Vs UT of J&K and others before the CAT Bench, Jammu for seeking compassionate appointment in a civil department which was disposed of on 28-10-2021 with the direction to the state respondent to consider the case of the applicant for being appointed against a non-gazetted post in Civil Department in terms of SRO-43 of 1994 within a period of two months.; and
6. Whereas, the Hon'ble Supreme Court in the titled "Umesh Kumar Nagpal Vs. State of Haryana" (JT 1994 (3) SC 525) has laid down that neither the qualification of the applicant (dependent family member) nor the post held by the deceased or medically retired government servant is relevant. If the applicant finds it below his dignity to accept the post offer, he is free not to do so. The post is offered not to cater his status but to see family through the economic calamity. The compassionate appointment is given only on humanitarian consideration and not a matter of right. Applicant can't compel department for appointment against a particular post. Strictly, the claim cannot be upheld on the touchstone of Article 14 or 16 of the constitution, as held by the courts in a catena of judgments.

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7. Now, therefore, in compliance to the CAT bench order dated 28-10-2021 passed in OA No. 61/937/2020 titled Mst. Gul Nahiem Vs UT of J&K and others, the claim of the petitioner for appointment in a civil department is found devoid of any merit and, accordingly, rejected

By Order of Government of Jammu and Kashmir.

Sd/-
(Shaleen Kabra) IAS
Principal Secretary to the Government
Home Department

No.Home/SRO-43/03/2019/CC-


Dated: 18 .01-2022

Copy to the:-

1. Principal Secretary to Hon'ble Lieutenant Governor.
2. Director General of Police, J&K.
3. Commissioner/Secretary to the Government, General Administration Department.
4. Director, Archives, Archaeology and Museums, J&K
5. Sh. Raman Sharma, Ld. Addl. Advocate General Hon'ble High Court, J&K, Jammu with the request to apprise the Hon'ble Court.
6. Private Secretary to Chief Secretary.
7. Private Secretary to Principal Secretary to the Government, Home Department.
8. In-charge website, Home Department.
9. Ms. Gul Nahiem w/o Late Constable Mohammad Zaif, No. 515/R (PID No. EXJ-995922) R/o Dhanour Dhandian, Tehsil and District Rajouri.
10. Government order file /Stock file

Copy also to the :-

1. Joint Secretary (J&K), Ministry of Home Affairs, Government of India, New Delhi


(Parveen Kumar)JKAS
Additional Secretary to Government
Home Department