

**Government of Jammu and Kashmir**  
**Home Department**  
Civil Secretariat, Jammu/Srinagar

**Subject:** SWP No. 2346/2011 titled Gousia Muzaffar vs. State & Others.

**Reference:** Order dated 12.05.2023 passed by the Hon'ble High Court in contempt petition, CCP(S) No. 473/2019.

**Government Order No:333-Home of 2023**  
**Dated: 20.06.2023**

Whereas, Shri Mohammad Muzaffar Malik, No. 4978/NGO R/O Khayar, Bandipora, who was serving in the J&K Police as ASI(M) died in harness on 30.05.2000; and

02. Whereas, the Police Headquarters, J&K vide communication No. Pers-A-51-2001/36247-48 dated 13.08.2001, submitted a proposal to the Home Department for considering compassionate appointment under SRO-43 of 1994, in respect of Shri Iftikhar Ahmad Malik S/o Late Mohammad Muzaffar Malik, ASI(M) No. 4978/NGO R/o Khayar, Bandipora; and

03. Whereas, the proposal ibid was examined in the Home Department and forwarded to the General Administration Department for considering appointment of Shri Iftikhar Ahmad Malik S/o Late Mohammad Muzaffar Malik, ASI(M) No. 4978/NGO as 'Constable' in the J&K Police, in relaxation of the applicable rules relating to the Height and Chest Standards. The proposal was returned by the GAD vide O.M No. GDC-219/CM/2001 dated 24.01.2002 with the observations that the departmental proposal "has not been agreed to". The decision of the GAD was conveyed to the PHQ, J&K, vide Home Department's communication dated 18.02.2002; and

04. Whereas, as per the records, after a gap of more than eight years, the Police Headquarters, J&K vide communication dated 30.06.2010, forwarded a proposal for considering compassionate appointment under SRO 43 of 1994 in respect of Ms. Gousia Muzaffar, daughter of Late Mohammad Muzaffar Malik, ASI(M) No. 4978/NGO; and

05. Whereas, upon examination of the proposal in the Home Department, the matter was taken up with the General Administration Department vide





U.O. No. Home/365/PB-III/Apptt./200 dated 02.02.2011, for considering appointment of Ms. Gousia Muzaffar, daughter of Late Mohammad Muzaffar Malik, ASI(M) No. 4978/NGO in any Civil Department against a Class-IV post. The General Administration Department vide U.O No. GDC-219/CM/2001 dated 13.04.2011 returned the case with the following observations:

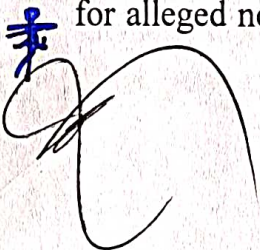
*"Returned. The elder son namely Iftikhar Ahmad figuring at S. No. 2 has been shown as government employee in the dependence certificate, therefore, the family cannot be said to be in any kind of financial distress and the case does not merit consideration under SRO 43 of 1994."*

06. Whereas, Ms. Gousia Muzaffar, approached the Hon'ble High Court through the medium of SWP No. 2346 of 2011 titled Gousia Muzaffar vs. State & others, inter-alia, praying therein that the petitioner be appointed against a suitable post as per her qualification under the provisions of SRO 43 of 1994 retrospectively from the date, it was due to her, in any civil department, as recommended by the respondents vide communication dated 30.06.2010. The Hon'ble High Court vide its order dated 18.11.2011 disposed of the SWP ibid, with the following directions:

*"Considered the submission as well as record available. Petition is disposed of with the direction to the respondents, more particularly respondent No.02 to finalize the accord of consideration to the recommendation as made by respondent no. 3 (Director General) for appointment of petitioner in any Civil Department against the suitable post as shall be permissible under SRO-43 of 1994.*

*The exercise of accord of consideration shall be completed within a period of six weeks from the date copy of the order is served upon the respondents. "*

07. Whereas, subsequently, the petitioner namely, Ms. Gousia Muzaffar, filed a Contempt Petition No. 253 of 2012 in the Hon'ble High Court praying therein for initiation of contempt proceedings against the respondents therein for alleged non-implementation of the order dated 18.11.2011 passed by the



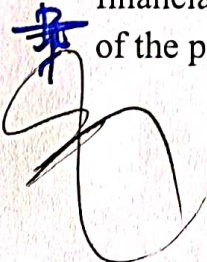


Hon'ble Court in SWP No. 2346/2011. The contempt petition was disposed of by the Hon'ble Court in the year 2012; and

08. Whereas, as per records, after a gap of more than seven years, Ms. Gousia Muzaffar filed another contempt Petition, CCP(S) No. 473/2019 in the Hon'ble High Court, inter-alia, praying for initiation of contempt proceedings against the respondents therein for alleged non-implementation of the order dated 18.11.2011 passed in writ petition bearing SWP No. 2346/2011. Upon consideration of the contempt petition, the Hon'ble High Court vide its order dated 12.05.2023 was pleased to, inter-alia, pass the following direction:

*"..... In view of the submissions made by learned counsel for the petitioner and having regard to the judgment 18<sup>th</sup> November, 2011, passed by this Court in SWP No. 2346/2011, it is apt to direct the respondents to re-examine the case of the petitioner and accord fresh consideration strictly in accordance with the aforesaid Judgment. Let fresh consideration order be passed within a period of six weeks."*

09. Whereas, in terms of the directions contained in the order dated 12.05.2023 of the Hon'ble High Court, the case of the petitioner was re-examined in light of the facts of the case, the rules which were applicable when the petitioner had applied for her compassionate appointment and the recommendations made by the Police Headquarters, J&K. Upon re-examination, it has been observed that in terms of second proviso to Rule 3 of the J&K Compassionate Appointment Rules, 1994, an application for compassionate appointment had to be filed by the family members of the deceased employee within a period of one year from the date of death of the deceased employee. However, in the instant case, the petitioner filed an application for her compassionate appointment on 24.02.2010 i.e. after more than 09 years of the death of her father and after more than eight years from the date, the intimation about the rejection of the case of her brother for compassionate appointment was given to the PHQ. It has further been observed that the element of compassion, which is a sine quo non for considering appointment of a family member of the deceased is missing in the instant case, as the family of the deceased ASI cannot be said to be under financial distress after a gap of more than 22 years due to death of the father of the petitioner in the year 2000.





10. Now, therefore, keeping in view the facts of the case, the relevant rules applicable to the instant case, the recommendations made by the respondent No-3 in the writ petition and in due deference to the order dated 18.11.2011 passed by the Hon'ble High Court in SWP No. 2346/2011 read with the order dated 12.05.2023 passed in the contempt Petition, CCP(S) No. 473/2019, the case of Ms. Gousia Muzaffar ( the petitioner), after having been re-examined/considered, has been found not covered under the applicable rules, inter-alia, for the reasons recorded in para 9 above and accordingly rejected.

**By order of the Government of Jammu & Kashmir.**

Sd/-

(R.K. Goyal) IAS  
**Financial Commissioner,  
Additional Chief Secretary (Home)**

No. Home/SRO-38/2022-10/Home (CC:149249)

Dated: 20.06.2023

**Copy to the:-**

1. Director General of Police, J&K.
2. Principal Secretary to the Hon'ble Lieutenant Governor.
3. Commissioner/Secretary to the Govt, General Administration Department.
4. Secretary to the Government, Department of Law, Justice and Parliamentary Affairs.
5. Director Archives, Archaeology and Museums, J&K.
6. Ld. Senior Additional Advocate General, HHC, J&K, Srinagar.
7. Private Secretary to the Chief Secretary.
8. Private Secretary to the Financial Commissioner(ACS), Home Deptt.
9. I/c, Website, Home Department.
10. Government Order file/ Stock file.

Copy also to the Joint Secretary (J&KL), Ministry of Home Affairs, GoI, New Delhi.

  
(Rashid Rana) JKAS

**Under Secretary to the Government**