

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

Subject: Compassionate appointment case of Sh. Reyaz Ahmad Shah B/o Late Constable Saleem Ahmad Shah S/o Ab. Gani Shah, District Kulgam, under SRO-43 of 1994 dated 20.02.1994 - (Consideration regarding).

Ref.: i) Letter No. Pers-A-79/2019/91582-95 dated 10.07.2019 from Police Headquarters J&K.
ii) Order dated 13-09-2023 passed in WP(C)/2023 titled Reyaz Ahmad Shah Vs UT of J&K and Others.

Government Order No: 58 -Home of 2024
Dated: 29 .01.2024

Whereas, Saleem Ahmad Shah, No. 1105/PL PID No. EXK-166077 , S/o Ab. Gani Shah R/o Mautalhama Tehsil & District Kulgam was working as Constable in Police Department and was martyred on 21.07.2018 while in active service; and

02. Whereas, vide above referred letter of the PHQ J&K, the case of Sh. Reyaz Ahmad Shah, brother of Late Saleem Ahmad Shah, was forwarded to the Home Department for consideration of his compassionate appointment, in a Civil Department under SRO-43 of 1994 dated 22.02.1994; and

03. Whereas, in pursuance of the recommendation ibid of the PHQ, the matter was examined in the Home Department and it was found that applicant was only 5th pass and therefore was not eligible for consideration in a Civil Department and therefore vide communication dated 05-09-2019, the PHQ was requested to recommend the proposed beneficiary for his appointment as 'Follower' in J&K Police; and

04. Whereas, DGP, J&K vide letter dated 25.11.2019, forwarded a copy of the willingness of the proposed beneficiary for consideration of his appointment, as 'Follower', in J&K Police, in relaxation of qualification under SRO-43 of 1994 dated 22.02.1994; and

05. Whereas, the case was further examined in the Home Department with reference to the documents made available by the PHQ and the rules governing the subject and the case of the applicant was referred to the GAD in terms of Rule-7 of SRO-43 of 1994 dated 22.02.1994 seeking relaxation in qualification; and

06. Whereas, the GAD returned the departmental proposal vide its U.O. No. GDC-91/CM/2020-SRO dated 30.04.2020 with the following advise:-

"The department is advised to provide the dependent certificate of the deceased issued by the concerned Assistant Commissioner, Revenue, besides, clarify as to how the Brother of the deceased was dependent on him being married"

07. Whereas, in light of the instructions of the GAD, the matter was again taken up with DGP, J&K, vide communication dated 20.05.2020 to furnish the requisite response to the Home Department for further examination of the case; and

08. Whereas, the response received from PHQ, J&K vide communication dated 31.07.2020 was forwarded to GAD. The GAD returned the departmental proposal vide U.O. No. GDC-91/CM/2020-SRO dated 10.12.2020 with the following remarks:-

"The department is advised to furnish the Dependent Certificate issued by the Assistant Commissioner, Revenue concerned instead of Family certificate".

09. Whereas, the observation of the GAD was again referred by the Home Department to the DGP J&K vide letter dated 17.12.2020, with the request to furnish the Dependent Certificate issued by the concerned revenue authorities. The PHQ vide letter dated 07.09.2021 conveyed that the matter was got verified through Assistant Commissioner, Revenue Kulgam, which reveals that the claim of the applicant for issuance of fresh Dependent Certificate does not hold any ground and cannot be issued in his favour and the earlier Dependent Certificate issued vide No. DCK/Misc/932 dated 04.07.2020 has been withdrawn ab-initio; and

10. Whereas, the report received from the PHQ was forwarded to the GAD vide letter dated 29.09.2021 and in response the GAD vide U.O. No. GAD-SRO/299/2021-07-GAD dated 21.10.2021 returned the departmental proposal with the following observation :-

"That the compassionate appointment case of Sh. Reyaz Ahmad Shah cannot be considered in absence of Dependence Certificate under SRO-43 of 1994 dated 20.02.1994"

11. Whereas, the Home Department vide letter dated 21.10.2021 conveyed to the DGP J&K, that the compassionate appointment case of Sh. Reyaz Ahmad Shah cannot be considered in absence of Dependent Certificate; and

12. Whereas, aggrieved of the above decision conveyed to the PHQ, the petitioner filed WP(C) 2371/2023 titled Sh. Reyaz Ahmad Shah V/S UT of J&K and Others for his compassionate appointment in terms of SRO-43 of 1994. The Hon'ble High Court, Srinagar vide its order dated 13.09.2023 ordered as under:-

"In the meantime, respondents are directed to accord consideration to the case of the petitioner in the light of the recommendations dated 25th November, 2019 issued by Director General of Police J&K, Jammu to the Principal Secretary to the Government, Home Department J&K Jammu within notice period".

13. Whereas, in pursuance of the aforesaid direction of the Hon'ble High Court, the compassionate appointment case of Sh. Reyaz Ahmad Shah brother of Late Saleem Ahmad Shah, was again examined in light of the communication dated 25.11.2019, wherein the Home Department was requested by the PHQ J&K, to consider the case of the applicant for his appointment as 'Follower' in J&K Police, in relaxation of educational qualification and it was found that the case of the petitioner for compassionate appointment is not covered under SRO-43 of 1994 dated 22.02.1994 as the petitioner was not dependent on the deceased. The same fact was conveyed by the Assistant Commissioner, Kulgam vide his report dated 13.08.2021, on the basis of which, the case of the petitioner was considered by the GAD and was rejected. The report of the Assistant Commissioner, Kulgam mentioned that on verification it surfaced that there are two separate ration cards, one in name of Sh. Abdual Gani Shah (Five family members) under Ration Card no. 011001703101 and second in the name of Sh. Reyaz Ahmad Shah under Ration card no. 011001703274. Furthermore, the report also indicated that the petitioner Sh. Reyaz Ahmad Shah got married in the year 2013 and is having a family, with spouse one daughter and two sons and he was married even before the death of his brother i.e. on 21.07.2018. The Scheme of compassionate appointment under SRO-43 of 1994 dated 22.02.1994 mandates that only dependent family member of the deceased can claim the benefit of compassionate

appointment. In the present case, the brother of the deceased was not dependent on the deceased and therefore is not covered under the scheme of compassionate appointment as he does not fall in the category of dependent family member.

Now, therefore, in due deference to the Order dated 13.09.2023 passed by the Hon'ble High Court, Srinagar, the claim of the petitioner for his compassionate appointment under SRO-43 of 1994 dated 20.02.1994 in light of the communication dated 25.11.2019 of the DGP, J&K to the Home Department, has been examined in terms of the extant rules and has been found devoid of merit and accordingly rejected, for the reasons stated herein above.

By order of the Government of Jammu and Kashmir.

Sd/-
(R.K. Goyal) IAS
Financial Commissioner,
Additional Chief Secretary (Home)

No.: HOME-SRO/100/2020-05 (CC.No.4741)


Dated: 29.01.2024

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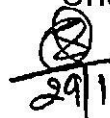
1. Director General of Police, J&K.
2. Commissioner/Secretary to the Government, General Administration Department.
3. Director, Archives, Archaeology and Museums, J&K.
4. Ld. Addl. Advocate General Hon'ble High Court J&K Srinagar with the request to apprise the Hon'ble CAT.
5. Private Secretary to ACS (Home).
6. In-charge website, Home Department.
7. Government order file (w.3.s.c) / Stock file.

Copy also to the:-

1. Joint Secretary (JKL), Ministry of Home Affairs, Government of India, New Delhi.


(Rouf Ahmad Lone) JKAS

Under Secretary to Government


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