

**HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU**

CJ Court

LPA No. 78/2021

Date of Pronouncement: 04.11.2025.

Uploaded on: 06.11.2025.

Bhader Wani

Aged 78 years, S/O Ghulam Rasool
Wani R/O Nowgam, Tehsil Marwah,
District Kishtwar.

.....Appellant(s)/Petitioner(s)

Through: Mr. Aseem Kumar Sawhney, Sr. Advocate
with Ms. Tehseena Bukhari, Advocate
Ms. Khushboo Sharma, Advocate.

vs

- 1. State (Now UT) of J&K**
Through Chief Secretary, Civil
Secretariat, Jammu/Srinagar
- 2. DGP, J&K**
Police Head Quarters, Jammu/Srinagar.
- 3. Dr. M. Haseeb Mughal**
S/O Sh. Mohd. Shafi Mughal R/o
Ahmedpur Mohalla Bhaderwah,
District Doda. Respondent(s)
- 4. Deputy Commissioner, Kishtwar.**

Through: Ms. Monika Kohli, Sr. AAG.

**Coram: HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE RAJNESH OSWAL, JUDGE**

JUDGMENT (ORAL)

(Rajnesh Oswal J)

1. The appellant had filed the writ petition bearing OWP No. 442/2008,
which was subsequently amended and following reliefs were sought:

*Writ petition under Article 226 of the Constitution of India
read with Section 103 of the State Constitution to issue a
writ of Mandamus directing and commanding the*

respondents to reinvestigate case FIR No. 2/2008 under Section 302/34 RPC Police Station, Marwah regarding the murder case of the petitioner's son by Central Bureau of Investigation (CBI) or State Crime Branch or a Special Investigation Team (SIT) to be constituted by the Hon'ble Court for conducting the investigations in a fair, transparent, scientific and speedy manner and submit fair and accurate challan before the trial court.

Further to monitor the re-investigation in the case FIR No. 2/2008 under Section 302/34 RPC, PS Marwah.

And further to pass any other order, writ or direction the Hon'ble Court may deem fit under the circumstances.

Further, appropriate action under law be taken against the delinquent officers including respondent No. 3 on the basis of the inquiry so conducted by the Ld. Additional District Magistrate, Kishtwar, and an FIR be directed to be registered against the said Police Officers and departmental action be taken against the said officers/officials found involved as per the recommendations of the inquiry report.

Further to direct the State to pay compensation to the petitioner's family and further to direct the State to consider the compassionate appointment of the petitioner's son Mohd. Illayas and further to provide a sense of security to the petitioner's family by either evacuation the petitioner's family to a safer place or by providing shelter and security in a safer place with migrant status and migrant relief.

2. Learned Writ Court vide its order dated 11.02.2020 dismissed the writ petition preferred by the appellant with observations that after the investigation of the case, the charge-sheet has already been filed and the trial is pending before the court of learned Sessions Judge, Kishtwar and further that the appellant has already been paid certain compensation on account of alleged killing his son by the militants.
3. Aggrieved by the order dated 11.02.2020, the appellant has challenged the same through this *intra court* appeal on the grounds, inter alia, that it is wrongly recorded in the order impugned that compensation has

already been provided/granted to the appellant, whereas the fact remains that it is not compensation under SRO 43, but ex-gratia granted by the Deputy Commissioner, Kishtwar. Precisely, the case of the appellant is that the learned writ court, without going into the merits of the claim in respect of compassionate appointment under SRO 43 made by the appellant, has dismissed the writ petition by holding erroneously that the reliefs sought by the appellant have been rendered infructuous.

4. We have heard learned counsel for the parties and perused the record.

5. A perusal of the writ petition preferred by the appellant reveals that besides raising the grievance in respect of investigation in FIR No. 2/2008 under Section 302/34 RPC registered with Police Station, Marwah, the appellant had also sought issuance of the directions to the respondents to pay compensation to his family and to consider the claim of the appellant for compassionate appointment of his son, namely, Mohd. Illayas, whereas in the order impugned, it is stated that the appellant has been paid certain compensation on account of killing of his son allegedly by the militants.

6. In affidavit dated 06.05.2025 filed by the Deputy Commissioner, Kishtwar, it is stated that the claim of the appellant for payment of cash compensation of Rs. 4 Lacs has been considered by the District Level Screening Cum Co-ordination Committee (DLSSC).

7. Mr. Aseem Kumar Sawhney, learned Senior Counsel appearing for the appellant has submitted that son of the appellant is entitled to

compassionate appointment under SRO 43, however, the appellant is being offered a meagre compensation of Rs. 4 Lacs in respect of killing of his son.

8. This is a fact that the learned Writ Court while passing the order impugned has not returned any finding in respect of the claim of the appellant for compassionate appointment of his son, as such, without commenting upon the merits of claims of the parties, we deem it appropriate to set-aside the order dated 11.02.2020 and remand the matter back to the learned Writ Court with a request to take up the matter at priority and make all possible endeavours to dispose of the same in accordance with law, as expeditiously as possible. Registry to list the writ petition bearing OWP No. 442/2008 on 17.11.2025 before the Bench having roster.

9. Disposed of.

(RAJNESH OSWAL)
JUDGE

(ARUN PALLI)
CHIEF JUSTICE

Jammu
04.11.2025
Sahil Padha

Whether the order is speaking: Yes/No.
Whether the order is reportable: Yes/No.