

HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU

WP (C) No. 2552/2025

1. UT of J&K through Applicant(s)/Petitioner(s)
Commissioner/Secretary
Home Department, J&K, Jammu.
2. Commissioner/Secretary
General Administration Department, J&K,
Jammu.
3. Director General of Police, J&K, Jammu.

Through :- Mrs. Monika Kohli, Sr. AAG

v/s

Ram Darshan, ...Respondent(s)
S/o Lt. Sh. Om Parkash,
R/o Village Chhuna, Tehsil Bhaderwah,
District Doda.

Through :-

CORAM: HON'BLE MR. JUSTICE SANJEEV KUMAR, JUDGE
HON'BLE MR. JUSTICE SANJAY PARIHAR, JUDGE

ORDER
16.09.2025

1. The petitioners call in question an order and judgment dated 05.11.2024, passed by the Central Administrative Tribunal, Jammu Bench, Jammu (“**the Tribunal**”) in T.A. No. 61/3211/2020, titled “Ram Darshan v. State of J&K and others”, whereby the Tribunal has allowed the T.A. filed by the respondent herein and quashed the order of consideration dated 25.11.2017, impugned in the T.A. The Tribunal has directed the petitioners herein to appoint the respondent on compassionate grounds to any vacancy in any Government Department in consonance with the provisions of Jammu and Kashmir (Compassionate Appointment) Rules, 1994, issued vide SRO 43 of 1994. The impugned judgment is challenged by the petitioners primarily on

the ground that the Tribunal has not correctly appreciated the provisions of SRO 376 of 2017 dated 11.09.2017, which debar a married son/daughter for seeking appointment under SRO 43 of 1994.

2. Our attention was drawn by the learned Senior AAG to the explanation added to SRO 376 of 2017, which provides that the amendment carried out to the Jammu and Kashmir (Compassionate Appointment) Rules, 1994, in terms of SRO 376 of 2017, would be applicable to the pending/rejected cases of compassionate appointment. It is, thus, argued that the learned Tribunal fell in error by holding that SRO 376 of 2017 was prospective in nature and, therefore, could not have been applied to the respondent for denying him the compassionate appointment on the ground that he was married son of the deceased employer.
3. Before we consider the arguments of learned Senior AAG appearing for the petitioners, we deem it appropriate to set out few facts that are relevant to the disposal of this petition.
4. The father of the respondent, who was serving as Head Constable in J&K Armed Police, died in harness on 17.11.2010, leaving behind his wife and three sons, which included the respondent herein. The respondent, after completing his matriculation in the year 2011, applied for appointment as Constable in J&K Armed Police on compassionate grounds. The application came to be turned down by the petitioners on the ground that he was a minor and, therefore, ineligible to hold the post. On attaining majority, the respondent again approached the petitioners herein in the year 2015, seeking government employment on compassionate grounds. His case was processed, and in terms of communication No. Pers-A-31/2015-25858-60 dated

14.05.2015, the Director General of Police recommended the case of the respondent for appointment as Constable in J&K Police under SRO 43 of 1994.

5. Perusal of the communication dated 14.05.2015 clearly shows that the Police Headquarters found the respondent eligible in all aspects to hold the post of Constable. It appears that when the case landed before the Administrative Department of Home, the same was turned down with a suggestion to process the case of the respondent for the post of Follower on the ground that he did not possess the requisite qualification.
6. The case remained pending for long and was ultimately turned down again by the Administrative Department of Home on the ground that the respondent had approached for compassionate appointment beyond the prescribed period. It seems that the Police Headquarters once again showed compassion towards the respondent and recommended his case for appointment as Follower, giving him the benefit of provisions of SRO 43 of 1994. This time, when the case reached the competent authority, it was rejected on the ground that he was married, and that a married son was ineligible to apply for compassionate appointment in terms of the amendment carried out to the Jammu and Kashmir (Compassionate Appointment) Rules, 1994, vide SRO No. 376 of 2017. It is this order of consideration which was called in question by the respondent in T.A. No. 3211/2020, which has been allowed by the Tribunal in terms of the judgment impugned. Feeling aggrieved of the order of Tribunal, the petitioners are before us in these proceedings.

7. Having heard learned counsel for the parties and perused the material on record, we are of the considered opinion that the judgment passed by the Tribunal is legal and factually correct and, therefore, does not call for any interference by us in these proceedings.
8. Indisputably, when the case of the respondent for compassionate appointment was processed second time i.e. in the year 2015, there was no impediment to consider his case and appoint him as per the recommendations made by the Director General of Police. It seems that the case of the respondent was turned down on the ground that he had failed to apply within the prescribed time. The reason given for rejection was totally unsustainable for the reasons that the respondent had applied well in time but his case for compassionate appointment could not be considered because he was found minor. The petitioners did not realize that the delay in filing the application in the year 2015 was because of the reason that at the time of death of his father, he was a minor. Otherwise also, the application moved by the respondent second time in the year 2015 was only in continuation of the earlier application and, therefore, could not have been thrown out on the ground of limitation. That apart, the petitioners having recommended his case again shall be deemed to have waived a plea of limitation. So far as SRO 376 of 2017 is concerned, we are of the considered opinion that the same would not be applicable to the case of the respondent. We are saying so because on plain reading of SRO 376 of 2017, it clearly transpires that the pending/rejected cases on the date of issuance of SRO 376 of 2017 are required to be decided in accordance with SRO 43 of 1994, as it stood before the issuance of SRO 376 of 2017.

Any other interpretation given to the explanation would render the entire SRO 376 of 2017 redundant and without any meaning.

9. For the foregoing reasons, we find no merit in this petition and the same is accordingly dismissed. We, however, clarify that the case of the respondent shall be considered for appointment against the post of Constable/Follower to which he is found eligible under the recruitment rules, and the entire exercise leading to the issuance of formal order of appointment shall be completed within a period of three months from today.

10. **Dismissed.**

(Sanjay Parihar)
Judge

(Sanjeev Kumar)
Judge

JAMMU
16.09.2025
Vishal Khajuria

