

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

WP (C) No. 2670/2025

1. **UT of J & K through Commissioner/Secretary,
Jal Shakti (PHE) Department,
Govt. of UT of J &K, Jammu.** Petitioner(s)
2. **Chief Engineer,
Jal Shakti, (PHE), Department,
Jammu.**
3. **Superintending Engineer,
Jal Shakti (PHE), Hydraulic, Circle,
Poonch.**
4. **Executive Engineer,
Jal Shakti (PHE), District Poonch.**

Through :- Mrs. Monika Kohli, Sr. AAG

v/s

Tofeeq Raiyaz, ...Respondent(s)
S/o Late Raiyaz Hussain @ Raiyaz Ahmed,
R/o H. No. 12, Mohalla Allapir, District Poonch-185101.

Through :-

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

**ORDER (ORAL)
26.09.2025**

(Sanjeev Kumar J)

1. The UT of J & K and three others are before us in this petition filed under Article 226 of the Constitution of India to throw challenge to an order and judgment dated 29.01.2025 passed by the Central Administrative Tribunal, Jammu Bench, Jammu [**“the Tribunal”**] in OA No. 1671/2023 titled “Tofeeq Raiyaz Vs. UT of J & K & Ors.”, whereby the Tribunal has, while allowing the OA filed by the respondent, directed the petitioners to consider the case of the respondent for compassionate appointment in terms of SRO-43 of 1994.

2. Briefly stated, the facts leading to the filing of this petition are that the father of the respondent was engaged as Daily Wager in the PHE Department in the year 2002 and died in harness on 22.02.2021 after rendering 19 years of continuous service as Daily Wager. The respondent approached the Executive Engineer, Jal Shakti (Public Health Engineering), District Poonch by way of a representation dated 19.07.2023 seeking a direction to appoint him in place of his deceased father. The said representation was rejected by the Executive Engineer in terms of its Order No. PHEP/5382-84 dated 27.08.2023 on the ground that the deceased father of the respondent was a Daily Rated Worker and, therefore, provisions of SRO-43 of 1994 as also the Rehabilitation Assistance Scheme, 2022 were not applicable.
3. Feeling aggrieved by the rejection of his case by the Executive Engineer concerned, the respondent filed an OA 1671/2023 before the Tribunal and prayed that the rejection order dated 27.08.2023 (supra) be quashed and also sought direction upon the petitioners to offer him appointment on a suitable post on compassionate grounds under the provisions of SRO-43 of 1994. The OA was contested by the petitioners solely on the ground that since the father of the respondent was only a need based worker and not holding any post, as such, the benefit of compassionate appointment envisaged under the SRO-43 of 1994 was not to be granted to the respondent.
4. The Tribunal, after having considered the rival contentions and taking note of the fact that the deceased father of the respondent had rendered 19 years of Daily Rated Worker, came to the conclusion that the deceased father of the respondent was entitled to permanent

absorption. Having held so, the Tribunal also held the respondent entitled to compassionate appointment. The judgment passed by the Tribunal is assailed by the petitioners before us on the solitary ground that the Tribunal has failed to appreciate that the respondent was not entitled to compassionate appointment in lieu of his deceased father, who was not holding any substantive civil post under the Government of J & K.

5. Having heard learned counsel for the petitioners and perused the material available on record, we are of the considered opinion that the judgment passed by the Tribunal is legally perfect.
6. There is no dispute with regard to the fact that the deceased father of the respondent was engaged as Daily Wager in the PHE Department somewhere in the year 2002 and died in harness on 22.02.2021 after rendering more than 19 years of continuous service. The engagement of the deceased father of the respondent for almost two decades continuously confers upon him a mental permanency and, therefore, as is rightly held by the Tribunal, the deceased had acquired the right of regularization.
7. Once it is held that the deceased father of the respondent at the time of his death had acquired the regularization, the benefit of SRO-43 of 1994 cannot be denied to the respondent on the ground that his deceased father was not holding the substantive civil post on the date of his death so as to avail benefit of SRO-43 of 1994.
8. For the foregoing reasons, we concur with the view taken by the Tribunal and hold the respondent entitled to be considered for regularization under the SRO-43 of 1994 by treating his deceased

father as regular employee of the Jal Shakti Department as Class-IV.

9. In view of the above, we find no merit in this petition and the same is, accordingly, dismissed.

(Sanjay Parihar)
Judge

(Sanjeev Kumar)
Judge

JAMMU
26.09.2025
Manan

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

