

**HIGH COURT OF JAMMU & KASHMIR AND LADAKHAT
SRINAGAR**

Reserved on: 25.03.2025
Pronounced on: 24.04.2025

LPA No.257/2024

MST AZI

...APPELLANT(S)

Through: Ms. Masooda Jan, Advocate.

Vs.

UT OF J&K & OTHERS

...RESPONDENT(S)

Through: Mr. Mohsin S. Qadiri, Sr. AAG, with
Ms. Maha Majeed, Advocate.

CORAM:-

**HON'BLE MR. JUSTICE RAJNESH OSWAL, JUDGE
HON'BLE MR. JUSTICE MOHD. YOUSUF WANI, JUDGE**

JUDGMENT

Per OSWAL 'J'

1. Appellant, through the medium of instant appeal, has challenged the judgment dated 09.08.2024 passed by the learned Writ Court in OWP No.311/2013, whereby the appellant has been held entitled to an amount of Rs.5.00 lacs as compensation and the respondent-Deputy Commissioner, Budgam, has been commanded to pay the aforesaid compensation to the appellant within a period of six weeks from the date of receipt of the impugned judgment.
2. Appellant had filed a writ petition bearing OWP No.311/2013 for grant of following reliefs:

“In the premises, it is, therefore, humbly prayed that the Hon'ble Court be pleased to issue writ, order or direction including:

(i) One in the nature of Mandamus, commanding the respondents to release a lump sum amount of Rupees Twenty Lacs in favour of petitioner who lost her husband,

a bread earner, due to injuries of bomb blast while working in the field.

(ii) One in the nature of Mandamus, commanding the respondents to extend the benefit of SRO 43 to the petitioner, as the petitioner was not adjusted on the post on which she was engaged in lieu of any compensation.

(iii) One in the nature of Mandamus, commanding the respondents to pay the petitioner a special package of Rupees Five Lacs (Rs. 5.00 lacs) for mental agony, wastage of time, litigation and inconvenience caused to petitioner by the omission and commission of respondents.

3. The above-mentioned reliefs were sought by the appellant on the ground that her husband had lost his both hands in the bomb blast while working in the field as a labourer but instead of paying any compensation, the respondents engaged appellant as a Sweeper in order to enable her to earn livelihood. The husband of the appellant expired on 1st February, 2011 and prior to that, she had filed a writ petition bearing SWP No.1132/2007, which was disposed of with the direction to the respondents to consider the claim of the appellant for regularization of her services and for payment of unpaid wages but instead of honouring the orders of the Court, the respondents dragged the appellant in various litigations. It was stated by the appellant that though she was entitled to be regularized but was thrown out of the office by the respondents by terminating her services without any reason.

4. The respondents had not filed any reply to oppose the writ petition. However, the respondent No.3 filed the compliance report in terms of order dated 02.09.2022, thereby stating that the appellant was engaged as Sweeper in Type Training Centre, Khag under Training of Rural Youth for Self Employment on consolidated wages of ₹750/ per LPA No.257/2024

month as per the order of Block Development Officer, Khag. The said Type Training Centre was closed after November, 1997, as a result of which the term of all the engagees including the appellant came to an end and, accordingly, the appellant was paid wages for the period she had worked, except for the months of October and November 1997. The appellant filed an application under Payment of Wages Act before the Court of Assistant Labour Commissioner, Budgam, and an award for an amount of Rs.27,898/ came to be passed in favour of the appellant. Thereafter the appellant filed a writ petition bearing SWP No.1132/2007, which was disposed of by the Court on 03.10.2007. In pursuance to the directions of the Writ Court, the report was called from the Assistant Commissioner (Dev.) Budgam, who vide communication dated 19.05.2014, reported that the appellant was not engaged as daily wager but was working as Sweeper in Type Training Centre for a brief period till the closure of the scheme. It was further stated in the response that the case of the appellant was taken up for consideration and Assistant Commissioner Development, Budgam, submitted a report stating that the appellant was not eligible for regularization as she was temporarily engaged under a scheme which is not operational now. It was also pleaded that the respondents were exploring every possibility to engage the appellant as Sweeper but as per the General Administration Department Circular No.30-GAD of 2019 dated 24.05.2019, a complete ban has been imposed on engagement of casual/seasonal/adhoc/consolidated/contractual/need based/daily rated workers. It was also stated that the case of the

appellant does not fall within the criteria as laid down in SRO 43-Jammu and Kashmir (Compassionate Appointment) Rules, 1994.

5. Another compliance report dated 03.10.2023 was filed, wherein it was stated that the husband of the appellant was injured in the year 1987 in a blast while digging land and he died at his residence in the year 2011 and it is evident that the death and accident are not co-related and, therefore, the appellant is not eligible for appointment under SRO 43.

6. The learned Writ Court after examining the pleadings and hearing the learned counsel for the parties, vide judgment dated 09.08.2024 declined to grant the relief of compassionate appointment. However, the learned Writ Court, by applying the principle of guesstimation, granted an amount of Rs.5.00 lacs as compensation for the disablement suffered by the husband of the appellant.

7. The appellant has assailed the judgment of the learned Writ Court, primarily, on the following grounds:

- (I) That the learned Writ Court has failed to take into consideration the position of the appellant, who is living in the border area of Khag, which was the war zone as the mines were spready everywhere and the husband of the appellant was just a labour and was hardly making both ends meet as lone bread earner of the family.

(II) That the Writ Court has not considered the relief of lump sum amount of Rs.20.00 lacs in favour of the appellant who lost her husband, a bread earner, due to injuries of bomb blast while working in the field and further to grant the benefit of SRO 43 to the appellant .

8. Heard learned counsel for the parties and perused the record of the case.

9. This is an admitted fact that the husband of the appellant was injured in the year 1987 in a bomb blast whereas he died in the year 2011. In fact, there is nothing on record to show that husband of the appellant died because of the injuries received in the bomb blast as he expired in the year 2011 i.e. after a period of 24 years from the incident of bomb blast. A person is entitled to seek benefit under SRO 43 only when his/her family member dies as a result of militancy related action or due to enemy action on the line of Actual Control/International Border within the erstwhile State of Jammu and Kashmir and is not involved in militancy related activities but also subject to certain conditions with regard to income of the family. As there is nothing on record to establish that the husband of the appellant died due to militancy related activities, this Court does not find any illegality or impropriety in the judgment passed by the learned Writ Court so far as denial of relief for grant of compassionate appointment to the appellant, is concerned.

10. So far as compensation part of the judgment is concerned, as the husband of the appellant never filed any writ petition for grant of compensation during his life time, therefore this court is of the considered opinion that sufficient compensation has been granted to the appellant.

11. In view of the above, we do not find any reason to show indulgence. Accordingly, the present appeal is dismissed being bereft of any merit. However, the respondents are directed to pay the amount of Rs.5.00 lacs (rupees five lacs) as directed by the learned Writ court within a period of one month from the date a copy of this order is served upon them, failing which the said amount shall carry interest @6% per annum from the date of passing of judgment by the Writ Court till final realization.

(MOHD. YOUSUF WANI)
JUDGE

(RAJNESH OSWAL)
JUDGE

Srinagar

24.04.2025

"Bhat Altaf-Secy"

Whether the order is reportable: Yes/No