

HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU

WP (C) No. 506/2026
CAV No. 2983/2025

UT of J&K and others

.... Petitioner/Appellant(s)

Through:- Mr. Raman Sharma, AAG

V/s

Vishal Khajuria

.....Respondent(s)

Through:- Mr. R.D. Singh Bandral, Advocate

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

ORDER
10.03.2026

1. Impugned in this writ petition filed by UT of J&K and three others under article 226 of the Constitution of India, is an order and judgment dated 03.03.2025 passed by the Central Administrative Tribunal, Jammu Bench, Jammu ["the Tribunal"] in TA No. 6981/2020 [WP(C) No. 4471/2019] titled "Vishal Khajuria V/s UT of J&K and another," whereby the Tribunal has allowed the petition of the respondent and held him entitled to be appointed as Laboratory Assistant in the School Education Department under SRO 43/1994 on the analogy of similarly situated persons who have been accorded such benefit. The petitioners have also been directed by the Tribunal to give all the consequential benefits to the respondent by giving him retrospective appointment with effect from the year 2015, when he was appointed as Class-IV.

2. 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 perfectly legal and does not call for any interference. The respondent, as has been found by the Tribunal on facts, was similarly situated with many persons, who, having regard to their qualifications, were appointed against the higher post of Laboratory Assistant/Library Assistant in the School Education Department. The respondent was a graduate at the time he was offered the appointment of Class-IV. It is not in dispute that the respondent represented immediately and made representation to the petitioners for appointing him against the higher post of Laboratory Assistant for which he was educationally qualified and otherwise eligible.
3. Ordinarily, compassionate appointment cannot be claimed as a matter of right and depends upon the discretion in a particular case to be exercised by the employer. However, in the Union Territory of J&K, the exercise of discretion in making compassionate appointments is regulated by statutory rules issued vide SRO 43/1994. In terms of SRO 43/1994, as it stood before amendment of 2007, the candidates who were matric and above were entitled to be offered the lowest post in the non-gazetted Cadre of the service concerned and those who had the qualification lower than the matriculation were offered the Class-IV posts. This position, however, changed with the amendment brought to SRO 43/1994 in the year 2007. The rule 3 was amended to provide that it would be in the discretion of the Government to appoint an eligible family member of the employee dying in harness against a vacancy in the

lowest rank of non-gazetted service or Class-IV post, having qualification as prescribed under the relevant recruitment rules.

4. In view of the aforesaid amendment carried out in Rule 3 of J&K (Compassionate Appointment Rules, 1994), issued vide SRO 43/1994, there is of course a discretion vested in the Government/employer to offer a vacancy either in the lowest rank of the non-gazetted service or Class-IV post, depending upon the availability of the post as also the qualification of the person seeking compassionate appointment. This discretion, however, cannot be exercised arbitrarily to confer the benefit of appointment against higher post in favour of some and benefit of appointment against Class-IV for others, as has happened in the instant case. The respondent has placed on record numerous orders issued by the petitioners, wherein the persons with the similar qualification as is possessed by the respondent have been appointed against the posts in the lowest rank of non-gazetted service like Laboratory Assistant/Library Assistant.
5. The petitioners have not been able to demonstrate any distinguishing feature in the case of the respondent, nor could they, justify as to why despite availability of vacancy in the lowest rank of non-gazetted service, the respondent with the qualification of graduation was offered the appointment of Class-IV. Viewed from any angle, we do not find any illegality or infirmity in the judgment passed by the Tribunal. The respondent shall be entitled to appointment retrospectively with effect from the date he was appointed as Class-IV, without any monetary benefits except the

seniority and re-fixation of his salary on such appointment as Laboratory Assistant.

6. With the aforesaid modification, the judgment passed by the Tribunal is upheld and this petition is disposed of accordingly.
7. Let the order passed by us today be complied with within a period of two months.
8. Contempt proceedings, if any, pending before the Tribunal shall stand closed.

(SANJAY PARIHAR)
JUDGE

(SANJEEV KUMAR)
JUDGE

Jammu:
10.03.2026
Shafqat

