

HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR

WP(C) 38/2025 CM(89/2025)

ABDUL RASHID MIR

...Petitioner/Appellant(s)

Through: Mr. M. Ashraf Wani, Advocate

Vs.

STATE OF J AND K AND ORS.
(GENERAL ADMINISTRATION)

...Respondent(s)

Through: Mr. Hakim Aman Ali, Dy. AG
Mr. G. N. Sofi, Dy. AG

CORAM:

HON'BLE THE CHIEF JUSTICE (ACTING)
HON'BLE MR. JUSTICE MOHD YOUSUF WANI, JUDGE

ORDER(ORAL)

17.08.2026

1. This is a petition under Article 226 of the Constitution of India filed by one Abdul Rashid Mir to assail the order and judgment dated 04.12.2024, passed by the Central Administrative Tribunal, Bench Srinagar ["the Tribunal"] in TA No. 7928/2020, titled "*Abdul Rashid Mir Vs. State of J&K and Ors*", whereby the petition filed by the petitioner for compassionate appointment has been dismissed.

2. Briefly stated the facts relating to the filing of this petition are that the father of the petitioner Mr. Hamza Mir, was working as helper in the Department of Sericulture. He died in harness on 28.04.2010, leaving behind the petitioner and two other sons namely Abdul Salam Mir and Mohammad Ashraf Mir and wife Mst. Zaiba.

3. The petitioner claiming to be a dependent son of the deceased employee applied for appointment on compassionate

grounds under the Jammu and Kashmir (Compassionate Appointment) Rules, 1994 issued vide SRO 43 of 1994 (Rules of 1994).

4. The claim of the petitioner was rejected by the respondents on 19.06.2014, on the ground that at the time of death of his father, the petitioner was 37 years 1 month and 19 days i.e., over age by one month and 19 days. The relaxation claimed by the petitioner was declined on the ground that the case of the petitioner was not covered under Relaxation Policy adopted by the General Administration Department.

5. Feeling aggrieved, the petitioner filed SWP No. 1045/2017 before this Court. Consequent upon the promulgation of J&K Reorganisation Act of 2019 and constitution of Tribunal, the instant petition came to be transferred to the Tribunal and registered there as TA No. 7928/2020. The petition of the petitioner was contested by the respondents on the ground that the petitioner was over aged by one month and 19 days and that his case was not covered under the relaxation policy adopted by the General Administration Department.

6. It was also contended before the Tribunal that in view of two brothers of the petitioner being employed, the petitioner was not in financial crisis requiring the respondents to show compassion and offer him appointment under Rules of 1994.

7. The Tribunal having considered the rival contentions came to the conclusion that the petitioner having crossed the age of 37 years on the date of death of his father was not entitled to be considered and also that there was no element of compassion involved in the case.

8. It was reasoned by the Tribunal that since the petitioner had survived for all these years without financial help provided by the

Government after the death of his father, therefore, the need for compassionate appointment had obviated.

9. Feeling aggrieved and dissatisfied with the judgment of the Tribunal dated 04.12.2024, the petitioner is before us and has invoked the extraordinary writ jurisdiction vested in this Court under Article 226 of the Constitution.

10. Having heard learned counsel for the parties and perused the material on record, we are of the considered opinion that the impugned order and judgment passed by the Tribunal is not in consonance with law and, therefore, cannot be sustained.

11. It is true that at the time of death of his father, the petitioner was over-aged for Government employment by one month and 19 days. The case of the petitioner was, accordingly, referred to the General Administration Department for relaxation in terms of Rule 7 of the Rules of 1994. The Rule 7 reads as under:

7. Power to relax – The Government may relax the lower or upper age limits or education/technical qualification, as the case may be, in deserving cases. All such cases shall be processed through General Administration Department in coordination.

12. From reading of Rule 7, it is evident that a power is conferred upon the Government to relax the lower or upper age limits or even the educational/technical qualifications as the case may be in deserving cases. The cases of relaxation, however, are required to be processed through General Administration Department in coordination.

13. We are in agreement with the learned Dy. AG appearing for the respondents that the competent authority to grant relaxation in the matter of compassionate appointments under Rules 1994 is the Chief Minister/Cabinet as the case may be. However, the case is required to be processed through the General Administration Department.

14. In the instant case, as is evident from the material on record, the case for relaxation of upper age limit of the petitioner was never processed under Rule 7 nor the same was ever placed before the competent authority for relaxation. It seems that the respondents took it as a case of relaxation under the policy of the General Administration Department. We wish to place it on record that there is no formal policy in writing issued by the General Administration Department laying down any guidelines for relaxation in deserving cases. The stand of the respondents is that as per the policy adopted by the General Administration Department, the relaxation in the upper age is granted only in a case where the candidate is found to be within age at the time of death of deceased employee, but the appointment is delayed due to procedural formalities.

15. We are afraid such understanding of provisions of Rules of 1994 is totally erroneous and fallacious. The power to relax lower or upper age limit as also the educational/technical qualifications is to be exercised by the Government in deserving cases and such deserving cases would be those where a candidate applying for compassionate appointment is either below the lower age or above the upper age limit prescribed for employment in the Government of Jammu and Kashmir. If a candidate is within age limits at the time of the death of his bread winner and at the time of submission of application, he would not require any relaxation. The age limit is to be seen at the time of submission of the application not at the time the Government offers the appointment after completing the procedural formalities. It seems that Rule 7 has not been understood by the respondents in its true perspective. The Tribunal has also landed in an error echoing the view of the respondent. We, therefore, find the rejection of the claim of the petitioner for compassionate appointment on the

ground that his case is not covered by the policy of relaxation adopted by GAD is unsustainable in law and totally erroneous.

16. For all these reasons, we find merit in this petition and same is, accordingly, allowed. The petitioner needs only relaxation of one month and 19 days and the respondents need to consider the same with compassion. Simply, because the two other brothers are settled in their life does not denude the petitioner of his right to claim compassionate appointment particularly when he has sufficiently demonstrated that he was dependent upon the deceased.

17. The judgment impugned is, therefore, set aside and a direction is issued to the respondents to process the case of the petitioner in terms of Rule 7 in the manner explained above and pass appropriate order of relaxation of upper age of the petitioner.

18. Let the needful be done within a period of two months from today.

(Mohd Yousuf Wani)
Judge

(Sanjeev Kumar)
Chief Justice (Acting)

SRINAGAR:

17.08.2026

Bhat Aadil

Whether the order is speaking:

Yes

Whether the order is reportable:

Yes