Sr. No. 28

HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU

WP (C) No. 3334/2026
CAV No. 2426/2026

Date of pronouncement : 21.10.2026
Date of uploading : 22.10.2026

1. Union Territory of J&K, through its Commissioner/Secretary, General Administration Department, Jammu/Srinagar.
2. Commissioner/Secretary to Govt. J&K, Forest Department, Jammu/Srinagar.
3. Commissioner/Secretary to Govt. J&K, Health and Medical Education Department, J&K, Jammu/Srinagar.

.....Petitioner(s)

Through :- Mrs. Monika Kohli, Sr. AAG with
Ms. Priyanka Bhat, Advocate

v/s

Abid Khursheed son of Late Khursheed Ahmed resident of Mohalla Kahi, Bhaderwah, Tehsil Bhaderwah District Doda.

.....Respondent(s)

Through :- Mr. Achal Sharma, Advocate

CORAM: HON'BLE MR. JUSTICE SANJEEV KUMAR, JUDGE
HON'BLE MR. JUSTICE MA CHOWDHARY, JUDGE

ORDER (ORAL)

Sanjeev Kumar 'J'

1. Impugned in this petition, filed under Article 226 of the Constitution of India by the Union Territory of Jammu and Kashmir and its functionaries, is an order and judgment dated 02.02.2026 passed by the Central Administrative Tribunal, Jammu Bench, Jammu **["the Tribunal"]**, in OA No. 290/2025, titled *"Abid Khursheed Vs. Union Territory of J&K and others",* whereby the Tribunal has allowed the petition filed by the respondent and held him entitled to be appointed

as Forest Guard or equivalent in the Department of Forest under SRO-43 of 1994.

2. Having heard learned counsel for the parties and perused the record, we are of the considered opinion that the judgment passed by the Tribunal suffers from no legal infirmity calling for interference by us in these proceedings. Admittedly, the respondent was 10+2 qualified at the time his father, an employee of the Forest Department, died in harness. He acquired the qualification of graduation before he was offered appointment as MTS in the Department of Health. The respondent has placed on record the requisite information indicating that several posts of Forest Guard under the direct recruitment quota were available when he was offered appointment as MTS.

3. SRO-43 of 1994, whereby the J&K Compassionate Appointment Rules, 1994 had been promulgated, clearly provides under **Rule 3 (1)** that an eligible family member of a deceased employee dying in harness may be appointed against a vacancy in the lowest rank of non-gazetted service or a Class-IV post, having qualification as prescribed under the relevant Recruitment Rules, provided the applicant is eligible and qualified for such post. It is true that, in the matter of offering the appointment on compassionate basis, there is some amount of discretion given to the competent authority for offering the appointment either in the lowest rank of non-gazetted service or to a Class-IV post. However, such discretion has to be exercised in a just, fair and non-discriminatory manner. The respondent has placed on record, along with his OA, some orders

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which clearly indicate that persons possessing similar qualifications have been appointed as Forest Guard on compassionate grounds.

4. The Tribunal taking note of all aspects of the matter has come to the conclusion that the respondent with the qualification of graduation could not have been discriminated *viz-a-viz* persons similarly situated and offered appointment as MTS when the posts of Forest Guard were available in the Department of Forest. It is in these premises, the OA filed by the respondent has been allowed.

5. We see no reason or justification to take a view contrary to the one taken by the Tribunal. The respondent with the qualification of graduation is required to be treated on a par with Babli Devi and Manjeet Kumar, who were similarly situated to the respondent but were offered the post of Forest Guards, whereas the respondent with a higher qualification was given compassionate appointment as MTS.

6. **For all these reasons, we find no merit in this petition, and the same is dismissed.** It, however, made clear that the appointment to be offered to the respondent as Forest Guard in the Department of Forest shall be treated as a fresh appointment, provided it is made within a period of two months from today.

(MA Chowdhary)
Judge

(Sanjeev Kumar)
Judge

JAMMU
21.10.2026
Diksha

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

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