Government of Jammu and Kashmir
Public Works (R&B) Department
Civil Secretariat, Srinagar/Jammu

Subject:- Compassionate appointment case of Ragav Changotra S/o Late Joginder Paul Changotra R/o Resham Garh Colony Jammu under SRO-43 of 1994.

GOVERNMENT ORDER NO: 180 -PW(R&B) OF 2024
DATED: 02 .07.2024

WHEREAS, Shri Joginder Pal Changotra, who was working as Head Draftsman in Mechanical Engineering Department, Mechanical Circle Jammu, died in harness on 18.06.1996 as per the death certificate issued by the Jammu Municipality under Registration No.1057 dated 11.07.1996, leaving behind his wife, daughter and son; and

AND WHEREAS, the Chief Engineer Mechanical Engineering Department, Jammu vide his letter No. CEM/J/145 dated 31.07.2002, submitted the case of the applicant to the Public Works (R&B) Department with the recommendation that Sh. Raghav Changotra, son of the deceased Head Draftsman has attained the age of maturity i.e. 18 years and has also passed his 10+2, making him eligible for appointment under SRO-43 and it was requested that the delay period of almost 06 years may kindly be condoned as the applicant was minor at the time of death of his father;

AND WHEREAS, the case was examined in the Department and referred to the General Administration Department for consideration for appointment of the incumbent in relaxation of lower age limit by 05 yrs, 08 months and 13 days. The General Administration Department returned the proposal with the following observations:-

"The Proposal has not been agreed to as it involves relaxation of rules."

AND WHEREAS, aggrieved of the above, the applicant approached the Hon'ble High Court of J&K, Jammu under SWP No 619/2014 and CMA No 874/2014 titled, *"Ragav Changotra V/s State & Ors"* and the Hon'ble High Court vide its judgement dated 07-03-2014 disposed of the petition with the following directions:-

> "Accordingly this writ petition is disposed of with a direction to the respondents to reconsider the case of petitioner for his appointment on compassionate grounds in terms of SRO-43 of 1994 strictly under rules and on the basis of the averments made in the writ petition and the documents annexed thereto. Let reconsideration order be passed within a period of two months from the date a copy of this order alongwith complete set of writ petition is made available to respondents."

AND WHEREAS, on the directions of the Hon'ble High Court, the case was again examined in the Department and taken up with the General Administration Department vide U.O No. PW(R&B)CA/09/2017 dated 07.02.2019. The General Administration Department vide

their U.O No. GDC-296/CM/2004-SRO dated 21.02.2019 returned the case with following observations/directions:-

> **"The department is advised to examine the case of the applicant in terms of SRO-120 dated 05.03.2018"**

AND WHEREAS, in pursuance of advice rendered by the General Administration Department, the case was examined in terms of SRO-120 dated 05.03.2018 and it was found that the ***applicant namely Shri Ragav Changotra, has married on 01.12.2017 as per marriage registration certificate issued by the Registrar of Marriages, Jammu, vide endorsement No. 542/TS/M/2019 dated 05.03.2019, as such the case does not come within the purview of SRO-120 of 2018."***

AND WHEREAS, the case was further examined in the Department and the matter was again taken up with the General Administration Department vide U.O No. PW(R&B)CA/09/2017 dated 13.03.2019, who vide U.O No. GDC-296/CM/2004-SRO dated 23.04.2019 returned the case with following observation:-

> **"The department is informed that the applicant at the time of death of his father was minor and is now found married, therefore, the case is not covered under relaxation policy and SRO-120 dated 05.03.2018 for compassionate appointment."**

AND WHEREAS, on the representation of the applicant, the case was re-examined in the Department and placed before the competent authority who observed to wait till submission of the report by the Committee, constituted vide Government Order No. 711-JK(GAD) of 2021 dated 11-08-2021 for reviewing the process of compassionate appointments in UT of J&K;

AND WHEREAS, in pursuance of the clarifications provided by the General Administration Department, vide OM No:GAD-SRO-523/-2023 (7373610) dated 12-02-2024 regarding disposal of pending compassionate appointment cases under SRO-43/1994 where the death of the deceased employee has occurred prior to issuance of SRO-120 dated 05-03-2018, the case was again examined in the Department and taken up with the Department of Law, Justice & Parliamentary Affairs for opinion. The said Department vide U.O. No. LAW-Serl/8/2024 dated 22.03.2024 returned the case file with the advice to seek the comments of General Administration Department in the matter;

AND WHEREAS, in pursuance of the above opinion of the Department of Law, Justice & Parliamentary Affairs, the case file was referred to the General Administration Department, who vide U.O No. GAD-SRO/09/2021-07-GAD (CC-18117) dated 24.04.2024 advised as under:

> **"The department is advised to issue a detailed consideration order in consultation with the Department of Law Justice and Parliamentary Affairs having regard to the eligibility conditions prescribed under SRO-120 of 2018 and the law laid down by Hon'ble Supreme Court of India in various such cases."**

AND WHEREAS, the Hon'ble Apex Court in State of H.P. v. Shashi Kumar, (2019) 3 SCC 653 has observed that compassionate appointment being an exception to the general rule, the dependents of deceased government employee are made eligible by virtue of the policy of compassionate appointment, and they must fulfill the terms of the policy which are framed by the States/Employers. Further, in Indian Bank v. Promilla,(2020) 2 SCC 729, the Hon'ble Apex Court observed that eligibility for compassionate appointment must be as per the applicable scheme and the courts cannot substitute a scheme or add or subtract from the terms thereof in exercise of judicial review.

AND WHEREAS, the case has been examined further in light of the above observations/advice of the General Administration Department/ judicial dictums on the subject and it has been found that the applicant namely Shri Ragav Changotra, has married on 01.12.2017 and as such his case is not covered under the relevant provisions of SRO-43 of 1994 read with SRO-120 of 2018 dated 05-03-2018.

Now, therefore, the case of Shri Ragav Changotra S/o Late Joginder Paul Changotra R/o Resham Garh Colony, Jammu for his compassionate appointment, having been considered under SRO-43/1994 read with SRO-120 dated 05-03-2018, has been found devoid of merit, and is accordingly rejected.

By order of the Government of Jammu & Kashmir.

Sd/-
(Bhupinder Kumar) IAS
Secretary to the Government
Dated: 02.07.2024

No: PWD-SRO/33/2021-05 (E-50461)

Copy to the:-

1. Principal Secretary to the Hon'ble lieutenant Governor.
2. Commissioner/Secretary to the Government, General Administration Department.
3. Joint Secretary (Jammu, Kashmir & Ladakh) Ministry of Home Affairs, Government of India.
4. Secretary to the Government, Department of Law, Justice & Parliamentary Affairs.
5. Senior Additional Advocate General, J&K High Court, Jammu.
6. Chief Engineer, Mechanical Engineering and Hospitals Department, Jammu.
7. OSD with Advisor (B) to the Hon'ble Lieutenant Governor, J&K, Srinagar.
8. Private Secretary to Secretary to the Government, Public Works (R&B) Department.
9. I/C Website, Public Works (R&B) Department.
10. Concerned.
11. Government Order file (w.3.s.c.s)/Monday Returns File.

(Farooq Ahmad Malik) JKAS 02/07/24
Deputy Secretary to the Government
Public Works Department