



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

Subject: Appointment on compassionate grounds under SRO-43 dated 22.02.1994 in favour of Sh. Shabir Ahmad Bhat S/o Late Ab. Majid Bhat R/o Yorekoshpora Anantnag, Tehsil Qazigund District Anantnag.

Government order No. **48** -PW(R&B) of 2021
Dated: **7** .02.2022

Whereas, one Sh. Ab. Majid Bhat was working as Helper in (R&B) Division Qazigund, died in harness on 15-10-2018, as reported by SHO Police Station Qazigund vide Registration No.330-15-B dated 22-10-2018; and

Whereas, Chief Engineer PW(R&B) Department Kashmir vide communication No. CE/RBK/ADM/ 27620-21 dated 05.02.2020 forwarded the compassionate appointment case of Sh. Shabir Ahmad Bhat S/o Late Ab. Majid Bhat R/o Yorekoshpora Anantnag, Tehsil Qazigund District Anantnag in terms of SRO-43; and

Whereas, Shri Ab. Majid Bhat, left behind his bereaved family consisting of six (06) family members i.e wife, three sons, and two daughters as per the dependent certificate issued by the Addl. Deputy Commissioner Anantnag vide No.783/ LH/Dep/Sro-43 dated 30.11.2018; and

Whereas, as reported by Sub Divisional Magistrate Dooru vide his letter No.SDM/D/2019-20/1022 dated 14-12-2019 the following members were dependent on the deceased employee:-

S.No	Name of family member/Dependent	Relationship with the deceased	Age	Occupation
01	Mst.Hajra	Widow	60 years	
02	Shabir Ahmad Bhat	Son	40 years	Shopkeeper

Whereas, Sh. Shabir Ahmad Bhat son of the deceased applied on 1.11.2018 for appointment on compassionate grounds under the provisions of SRO-43 of 1994 dated 22.02.1994; and

Whereas, the Chief Engineer PW(R&B) Department Kashmir furnished the following details of the case vide his communication No. CE/RBK/ADM/27620-21 dated 05.02.2020 for compassionate appointment as per Circular No. 07 of 2006 dated 22.03.2006:-

01	Name of the applicant	Sh. Shabir Ahmad Bhat
02.	Name of the deceased Govt. Servant	Ab.Majid Bhat
03.	Date of death of the deceased Govt.servant	15-10-2018

		Natural Death
04.	Cause of death	27.01.1979
05.	Date of Birth of the candidate	Son
06.	Relationship with the deceased Govt.servant	39 Years 08 months & 18days
07.	Age on death of his father	40 Years 11 months and 5days
08.	Age as on 1st January of the current year 01.01.2020	10th pass
09.	Qualification	Road Worker (Class-IV)
10.	Post against which the candidate is recommended for appointment	01.11.2018 (within time)
11.	Date of application	Upper age bar by 11 months & 05 days
12.	Relaxation, if any required	

Whereas, the case was examined in the Department and it was found that the beneficiary is 10th pass and in pursuance of SRO- 99 of 2008, dated 07-04-2008, issued by the General Administration Department, the minimum and maximum qualification for appointment to any Class-IV post has been prescribed as Matriculation or 10+2; and

Whereas, the beneficiary as per date of birth i.e. 27-01-1979 was 39 years, 08 months, 18 days at the time of death of his father, and as on 1st January, 2020 the applicant was over aged by 11 months and 05 days thereby falls within the ambit of relaxation of upper age bar and the powers for relaxation in upper age bar vests with the Hon'ble Lieutenant Governor; and

Whereas, Public Works (R&B) Department, with the prior approval of the Hon'ble Advisor Incharge PW (R&B) Department submitted the case to General Administration Department vide U.O No. PW/R&B/CA/08/2020 dated 10.08.2020 for seeking relaxation of upper age bar; and

Whereas, the General Administration Department vide UO No. GDC-152/CM/2020-SRO dated 30.09.2020 returned the case with following observations:-

Returned. The department is informed that the case of the applicant is not covered under SRO-43/relaxation policy in vogue.

Whereas, the above observations of GAD were conveyed to Chief Engineer PW(R&B) Department Kashmir vide communication No. PW/R&B/CA/08/2020 dated 08.10.2020; and

Whereas, aggrieved of the above action, Shri Shabir Ahmad Bhat filed a case in the Hon'ble Central Administrative Tribunal (CAT) titled Shabir Ahmad Bhat Vs UT of J&K praying therein for the following reliefs:-

a. to quash communication No. PW(R&B)CA/08/2020 dated 08.10.2020 addressed to Chief Engineer R&B Kashmir.

b. to quash UO No. GDC-152/CM/2020-SRO dated 30.09.2020 of GAD whereby the case of applicant was not found covered under SRO- 43.

kyb

[Signature]

Whereas, the Hon'ble CAT disposed off the aforesaid case vide order dated 07.04.2021, the operative part of which is reproduced as under:-

Looking at the limited prayer made by the learned counsel for the applicant, we dispose of the OA with the direction to the respondents to pass a reasoned and speaking order mentioning the reasons for rejecting the claim of the applicant for grant of compassionate appointment within a period of one month from the date of receipt of certified copy of this order."

Whereas, the case of the applicant was re-examined in the Department and it was found that since the applicant requires relaxation in the upper age bar for which the Hon'ble L.G is the competent authority and to whom the case was recommended through GAD in co-ordination which was however returned with the observation that the case is not covered by SRO-43/ Policy in vogue regulating compassionate appointment. In absence of relaxation in upper age bar by the competent authority, the department is not empowered to appoint the petitioner on compassionate grounds; and

Whereas, the department has again taken up the matter with the General Administration Department vide OM No. PWD-LIT/205/2021 dated 17.09.2021 with the request to provide necessary inputs to this department; and

Whereas, General Administration Department vide his OM No. GAD-SRO/384/2021-09-GAD dated 06.01.2022 has intimated that in terms of SRO-165 dated 09.06.2014, the upper age limit for entry into Government Service has been prescribed as 40 years. The petitioner was overaged by 11 months & 05 days as on 01.01.2020, the date on which his age was to be reckoned, and as such the case was rejected.

Now, therefore, in view of the above facts and position, the claim of the petitioner has been found devoid of merit.

By Order of the Government of Jammu and Kashmir.

Sd/-
(Shailendra Kumar) IAS
Principal Secretary to the Government
Public Works (R&B) Department

Dated: 7 .02.2022

No.PWD-LIT/205/2021-05

Copy to the:

1. Joint Secretary, Ministry of Home Affairs (J&K Affairs), Govt of India.
2. Principal Secretary to Government, General Administration Department.
3. Director Archives, Archaeology & Museums, J&K Jammu.
4. Senior Law Officer, Public Works (R&B) Department.
5. Chief Engineer, Public Works (R&B) Department, Kashmir
6. OSD with Advisor (B) to Hon'ble Lt. Governor, J&K.
7. Faheem Shokat Butt, Advocate, J&K High Court, Jammu.
8. Pvt. Secretary to Principal Secretary to Government, Public Works(R&B) Department.
9. Shabir Ahmad Bhat S/o Late Ab. Majid Bhat R/o Yorekoshpora Anantnag, Tehsil Qazigund District Anantnag.
10. Incharge website, Public Works (R&B) Department.
11. Government Order file/Stock file/Monday return.

(Hamid Hameed)

Under Secretary to the Government