

## Central Administrative Tribunal Jammu Bench, Jammu



T.A. No. 6809/2020  
(S.W.P. No.2245/2013)

Wednesday, this the 28<sup>th</sup> day of April, 2021

(Through Video Conferencing)

**Hon'ble Mr. Justice L. Narasimha Reddy, Chairman  
Hon'ble Ms. Aradhana Johri, Member (A)**

1. Ayesha Begum, aged about 47 years  
w/o late Mohammad Sulaiman Shah
2. Mohammad Syed Shah, aged about 22 years  
s/o late Mohammad Sulaiman Shah
3. Shabir Ahmad Shah, aged about 18 years  
r/o late Mohammad Sulaiman Shah

All residents of Warnow (Lolab) Kupwara ..Applicants  
(*Nemo* for applicants)

### VERSUS

1. State of J&K through  
Commissioner/Secretary to  
Civil Govt. Rural Development Department of Jammu
2. Director,  
Rural Development Department Kashmir  
Srinagar
3. Assistant Commissioner Development, Kupwara
4. Block Development Officer, Kupwara
5. Mozam Shah s/o Peer Hussain Shah  
r/o Warnow Lolab Kupwara

..Respondents

(Mr. Rajesh Thappa, Deputy Advocate General)

## ORDER (ORAL)

### Mr. Justice L. Narasimha Reddy:



The T.A. was listed more than once for hearing and there is no assistance from side of the applicant. Therefore, we have perused the records and heard the learned counsel for respondents and proceeded to decide the T.A.

2. One Mr. Mohd. Sulaiman Shah was employed in the Government service of Jammu & Kashmir. He said to have been killed in the year 1996 by unknown persons and a criminal case was also registered. He left behind him, his wife, the 1<sup>st</sup> applicant, his two sons (applicant Nos.2 & 3) and two unmarried daughters. Since the 1<sup>st</sup> applicant was not educated and the children were all minors, the 5<sup>th</sup> respondent, the brother of deceased employee, was appointed on compassionate grounds in the year 1997. The applicants filed SWP No.2245/2013 before the Hon'ble High Court of Jammu & Kashmir with a prayer to direct the respondent Nos. 1 to 4 to disengage the respondent No.5 and appoint applicant No.2 in his place.

3. The applicants contend that though the benefit of compassionate appointment was extended to respondent No.5 by placing an obligation upon him to maintain the family of the

deceased, he has grossly neglected them and is not providing any help to them.

4. The respondent Nos. 1 to 4 on the one hand and respondent No.5 on the other, filed separate counter affidavits. In the reply filed by respondent Nos. 1 to 4, it is stated that once the appointment was made in accordance with the scheme, there is no provision for recalling the compassionate appointment on a complaint made by the other members of the family of the deceased.



5. In his counter affidavit, the respondent No.5 stated that the family of his brother (deceased employee) and himself were living together, and on account of the death of his brother, he was appointed on compassionate grounds on finding that he is an eligible candidate. He contends that he performed the marriage of two daughters of the deceased and got the applicant Nos. 2 and 3 educated. He submits that the plea of the applicants cannot be accepted.

6. The respondent No.5 further stated that the applicant No.1 is working as Aganwari worker and not only was she remarried, but also gave birth to the children after remarriage.

7. The SWP has since been transferred to the Tribunal in view of reorganization of the State of Jammu & Kashmir and renumbered as T.A. No.6809/2020.

8. Today, there is no representation for the applicants and respondent No.5. We heard Mr. Rajesh Thappa, learned Deputy Advocate General and perused the record.



9. The facility of appointment on compassionate grounds itself is not governed by any statutory rules. It was created on the strength of the directions issued by the Hon'ble Supreme Court. The purpose was to enable the family to tide over the difficulties, that have arisen on account of sudden death of the employee. The verification as to the entitlement or otherwise of any family member of the deceased employee was required to be undertaken in the year 1997. Neither the wife nor the children of the deceased were eligible to be appointed. Obviously for that reason, the respondent No.5, his brother was extended the benefit.

10. It may be true that the very purpose of extending the benefit of compassionate appointment to respondent No.5 was to help the family of the deceased employee. The appointment took place more than two decades ago. At this length of time, any complaint of the applicants about the cooperation or otherwise of the respondent No.5 cannot entertained. The applicants are also not able to cite any provision of law or binding precedent, that enables us to recall the benefit of compassionate appointment, that too, at this length of time.

11. We do not find any merit in this T.A. It is accordingly dismissed. There shall be no order as to costs.



**( Aradhana Johri )**  
**Member (A)**

**( Justice L. Narasimha Reddy )**  
**Chairman**

**April 28, 2021**  
/sunil/maya/dsn/