



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

Subject: SWP.No.235/2012 titled Suman Sharma V/s State & Ors regarding appointment of Smt. Suman Sharma W/O Late Shri Jagdish Parkash Raina (Ex- Junior Assistant) on compassionate basis under SRO-43 dated 22-02-1994.

Government Order No. 234- PW(R&B) of 2021
D a t e d: 29 -07- 2021

Whereas, the Chief Engineer PW(R&B) Department Jammu vide his communication No. CEJ/Estab/S/1279 dated 16.07.2010 forwarded the compassionate appointment case of Smt. Suman Sharma W/O Sh. Jagdish Parkash Raina, who was working as Junior Assistant in PW(R&B) Department Jammu and died on 11.02.2010 in road accident; and

Whereas, Shri Jagdish Parkash Raina, left behind his widow, son and a daughter as per dependent certificate issued by Assistant Commissioner (Rev) Jammu vide No. DCJ/Relief/SRO-43/10-11/38 dated 01.06.2010; and

Whereas, the case was examined in the department and it was found that date of birth of Smt. Suman Sharma is 18.08.1968 and her age as on 01.01.2011 was more than 42 years while as maximum age limit for direct recruitment was 37 years at that point of time, Thus required relaxation of upper age bar; and

Whereas, the matter was referred to General Administration Department vide U.O. No. PW/R&B/CA/J/2/2011 dated 31.03.2011 for seeking relaxation of upper age bar; and

Whereas, the General Administration Department, vide their U.O. No. GDC-171/CM/2011-SRO dated 10.06.2011, returned the case with following observations:-

Returned. The case of the candidate is not (not) covered under SRO-43 of 1994/ relaxation policy.

Whereas, after seeking approval of the competent authority, the case was again referred to General Administration department for reconsidering the case on humanitarian grounds; and

Whereas, the General Administration Department vide their U.O No. GDC-171/CM/2011-SRO dated 15.12.2011 remarked as under:-

Returned. As per the bio-data of the candidate the age of Smt. Suman Sharma at the time of death of her husband was 41 years 05 months and 23 days and is 42 years, 04 months and 13 days as on 01.01.2011.

As per the relaxation Policy in vogue, widows of Government employee is to be given 05 years relaxation in upper age beyond 37 years. Since Smt. Suman Sharma's age on 01.01.2011 is 42 years, 04 months and 13 days and after giving relaxation in upper age, she is still overaged by 04 months and 13 days as on 01.01.2011. Hence the case does not fall within the ambit of SRO-43/relaxation policy.

Whereas, the Chief Engineer PW(R&B) Department Jammu was informed vide this department letter No. PW/R&B/CA/J/02/2011 dated 22.12.2011, was accordingly informed in the matter; and

Whereas, aggrieved of the above action, Smt Suman Sharma filed a writ petition bearing No. 235 of 2012 V/s State and others praying therein:-

That in light of submissions made above and those to be urged at the time of hearing the petition may very kindly be allowed and the order dated 22.12.2011 bearing No. PW/R&B/CA/J/02/2011 passed by the respondents whereby the Respondent No.4 on the directions to the Respondent No.3 has rejected the case of the petitioner for appointment on compassionate grounds may very kindly be quashed, as also the policy of relaxation of age of the respondents be quashed and further the respondents be directed to appoint the petitioner on compassionate grounds by relaxing the age limit under J&K Compassionate appointment rules 1994 with any other/alternate/additional relief which this Hon'ble Court deems fit and proper in the given circumstances of the case."

Whereas, the Hon'ble High Court disposed off the aforesaid writ petition vide order dated 09.12.2013, the operative part of which is reproduced as under:-

The petition on hand stands disposed of directing the respondents to consider the case of the petitioner for compassionate appointment on account of death of her husband, in which relaxation part vis-a-viz age shall also be considered as her case falls within the zone of consideration. Let this exercise be carried out within one months time only from the date, copy of the order is made available to the concerned which shall primarily be the responsibility of the petitioner only."

Whereas, Pursuant to the order of the Hon'ble High Court dated 09-12-2013, the case of the petitioner was examined again in the department and it was found that to consider the petitioner for appointment on compassionate basis, relaxation in upper age bar of the petitioner was /is required for which the case was submitted to the competent authority through GAD to grant relaxation as provided in the SRO-43 which was not agreed to and was conveyed through The GAD on that even if the limit of relaxation in upper age bar as provided in SRO - 43 is granted to the petitioner, the petitioner is/was still over aged. Further appointment under SRO-43 is made to help the family of the Govt. employee who dies while in service to tide over the financial stress caused due to death of the bread earner of the family. In the instant case the death of the husband of the petitioner has occurred in the year 2010, appx 11 years ago, appointment of the petitioner in Govt. service at this time under the garb of SRO-43 can not be made as element of compassion is seen missing in this case which is mandatory in making appointments on compassionate basis; and



Now, therefore, in view of the above facts and position, the claim of the petitioner having been examined and considered in compliance to order of the Hon'ble High Court dated 09-12-2013 passed in W.P. No. 235 of 2012 V/s State and others, 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: 29-07-2021

No. PWD-SRO/22/2021-05

Copy to the:

1. Joint Secretary, Ministry of Home Affairs (J&K Affairs), Govt of India.
2. Commissioner/Secretary to Government, General Administration Department.
3. Chief Engineer, Public Works (R&B) Department, Jammu.
4. Director Archives, Archaeology & Museums, J&K Jammu.
5. OSD to Hon'ble Advisor (B) to Hon'ble Lt. Governor, J&K.
6. Pvt. Secretary to Principal Secretary to Government, Public Works (R&B) Department.
7. Smt Suman Sharma W/O Late Jagdish Parkash Raina (Ex- Junior Assistant) R/O H.No. 138, Mohalla Ustad Jammu Tehsil & District jammu.
8. PW(R&B) Website.
9. Government Order file/Stock file.
10. Monday return, GAD.

(Farooq Ahmad Malik)

Under Secretary to the Government
Public Works(R&B) Department

