



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

Subject:- CCP(S) No. 316/2021 titled Nazir Ahmad Parray V/s Mr.
Shailendra Kumar- Claim for appointment under SRO-43.

Govt. Order No 268-PW(R&B) of 2021-
Dated:- 10.09.2021

Whereas one Shri Gh. Mohd Parray was working as Road Supervisor in
R&B Division Budgam and died in harness on 02.06.1990; and

Whereas, the wife of the deceased employee submitted an application
on 31.03.1990 for appointment of her son on compassionate grounds
being the adopted son of the deceased; and

Whereas, the case was examined in the department and rejected, as
the case being not covered under SRO-43 of 1994; and

Whereas, Shri Nazir Ahmad Parray filed SWP No. 994/2009, whereunder
he had prayed for directing the respondents to appoint him on
compassionate basis being the adopted son of the deceased; and

Whereas, the said writ petition came to be disposed of by the Hon'ble
High Court on 04.06.2010 with the directions to the respondents to
consider claim of the petitioner for appointment on compassionate
grounds strictly in accordance with the mandate of rules occupying the
field; and

Whereas, the case was again examined in the department and vide
Govt. Order No. 465-PW(R&B) of 2011 dated 15.12.2011, the claim of
the petitioner was rejected by the department; and

Whereas, aggrieved of the above mentioned Govt. order, Shri Nazir Ahmad Parray filed another writ petition bearing SWP No. 268/2012 titled Nazir Ahmad parray V/s State of J&K & Ors challenging therein the above said Order; and

Whereas, on consideration of the matter, the Hon'ble High Court vide order dated 14.02.2019, quashed the Government Order No. 465-PW(R&B) of 2011 dated 15.12.2011 and directed the department to reconsider the whole issue in light of the observations made in the order itself; and

Whereas, the matter was further examined in the department and taken up with the Department of Law, Justice and Parliamentary Affairs for grant of sanction for filing LPA against the judgment dated 14.02.2019; and

Whereas, The department of Law, Justice and Parliamentary Affairs returned the case with the following observations:-

Returned. The respondent Department is advised to reconsider the case of the petitioner, it would be advisable for the department to comply the directions of the Hon'ble Court and pass a speaking consideration order in view of the observations of the Hon'ble Court and provisions of SRO-43 of 1994.

Whereas, the Chief Engineer R&B Kashmir vide this department's letter No. PW(R&B)/Legal/31/2019 dated 23.09.2019, was requested to submit the compassionate appointment case of the petitioner alongwith all the requisite documents (in-original) so that his request is considered in terms of SRO-120 of 2018; and

Whereas the Chief Engineer PW(R&B) Kashmir vide communication No. CE/RBK/LAW/Part-2nd/962/30940-43 dated 03.03.2020, followed by letter dated 12.09.2020 submitted the requisite documents; and

Whereas, the matter was again examined in the department and Chief Engineer PW(R&B) Department Kashmir, vide this department's letter



dated 13.10.2020 was requested to furnish the Adoption deed and certificate to the effect that the element of compassion still exists in the family of the deceased Govt. employee issued by the Deputy Commission concerned; and

Whereas, Chief Engineer PW(R&B) Department Kashmir vide communication No. CE/RBK/LAW/29993-95 dated 23.02.2021 furnished the adoption deed and the certificate to the effect that element of compassion still exists in the family issued by Deputy Commission Budgam; and

Whereas, in the meanwhile Shri Nazir Ahmad Parray has filed a contempt petition registered as CCP(S) No. 316/2021 titled Nazir Ahmad Parray V/s Mr. Shailendra Kumar and the Hon'ble Court vide order dated 30.07.2021 has passed the following order in the said contempt petition:-

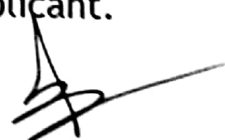
"Notice to the respondents for filing statement of facts/compliance report, returnable by or before next date of hearing.

List on 17th of September, 2021".

Whereas the case has been re-examined pursuant to the orders of the Hon'ble High court and strictly in light of the provisions of rules regulating compassionate appointment. During examination of the case, it has been found that the petitioner Nazir Ahmad Parray is adopted son of the deceased employee Shri Ghulam Mohd Parray who had died while in service more than three decades ago and therefore the object of providing appointment to the next kin of the deceased has forfeited/lost its force because the object of providing the employment to next kin of the deceased is to come to the immediate rescue of the family of the deceased employee who was the bread earner for the family.

Whereas, the above facts makes the petitioner dis-entitled to the benefit of appointment on compassionate basis on the following grounds:-

- I. The petitioner is a muslim by religion. He claims to be adopted son of the deceased employee. In Muslim sharia Law, adoption is not permissible and so say the rules that adopted children can claim appointment on compassionate grounds provided adoption is allowed in the personal law of the applicant.



- II. The death of the employee Shri Ghulam Mohd Parray has occurred more than 30 years ago, the element of compassion is sure to have vanished by now due to efflux of time.
- III. The claim is time barred. After 30 years of the death of employee, the petitioner cannot be considered for appointment.

Now, therefore, in the view of the above facts and position, the claim of the petitioner has been found devoid of any 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: 10-09-2021

No. PWD-LIT/156/2021-05

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, Kashmir.
4. Director Archives, Archaeology & Museums, J&K.
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. Shri Nazir Ahmad parray S/O Ghulam Mohammad Parray R/O Sail Beerwah Budgam.
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

