

HIGH COURT OF JAMMU AND KASHMIR
AT SRINAGAR

SWP No.523/2016

Date of order:27.04.2017

Ateeqa Begum& Anr. Vs. State of J&K&Ors

CORAM:

Hon'ble Mr. Justice Ramalingam Sudhakar, Judge.

Appearing counsel

For the petitioner(s) : Mr.Bilal Ahmad Malla, Advocate.

For the respondent(s) :Mr. M.I.Dar, AAG.

Ms. Asma Rashid, Advocate.

The relief sought in the writ petition is as follows:-

- a) WRIT OF MANDAMUS, commanding the respondents to issue dependency certificate in favour of the petitioner No.2 and the respondents be further commanded to process the case of the petitioner No.2 for grant of compassionate appointment under Jammu and Kashmir (Compassionate Appointment) Rules, 1994 notified vide SRO 43 of 1994.
- b) WRIT OF MANDAMUS, commanding upon the respondents to grant all service benefits in favour of the petitioners.
- c) WRIT OF PROHIBITION, prohibiting the official respondents from processing the claim of the respondent No.5 for grant of appointment under SRO 43 of 1994.

Petitioner No.1 is mother of the deceased, petitioner No.2 is his brother and respondent No.5 is his widow.

The deceased, Shabir Ahmad Wani was working as Sr. Statistical Assistant in the respondent-department. He died in harness on 06.12.2015. On his death the mother filed writ petition stating that in terms of SRO 43 of 1994 the brother of the deceased should be considered for employment on compassionate grounds. It is also prayed by the mother that the widow of the deceased-respondent No.5 should not be given appointment under the said category.

Respondent No.5 is represented by Ms. Asma Rashid, Advocate and official respondents are represented by Mr.M.I. Dar, learned AAG.

Objection is raised stating that the petitioner no.2-brother of the deceased is not eligible under law to claim as a matter of right appointment on compassionate grounds. Claim of the widow is that she alone would be entitled to appointment on compassionate grounds in terms of provisions of SRO 43 of 1994.

Whether the claim of the petitioner No.2 in terms of SRO 43 of 1994 is justified or not and whether he could claim that respondent No.5-widow is not entitled to such benefit, is an issue to be considered by the competent authority, by taking note of rival claims.

Petitioner No.2 is at liberty to place all the relevant documents/records before the competent authority to seek appointment on compassionate grounds and claim of respondent No.5 shall also be considered and decision in this regard should be taken by respondent No.2-Director General Planning and Development within two weeks from the date copy of this order is served on him. Objections, if any, by respondent No.5 to the claim of petitioner No.2 should be considered on its own merits.

Disposed of alongwith all connected MPs.

(Ramalingam Sudhakar)
Judge

SRINAGAR
27.04.2017
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