Government of Jammu and Kashmir
Home Department

Subject: -  Order dated 30.07.2015, of the Hon’ble High Court of J&K, Srinagar in SWP No.2150 of 2014 titled Mohammad Yaseen Bhat v. State and others.

Reference:- Letter No. DGF&ES/Lit/7461 dated 10.08.2015 from Director General, Fire and Emergency Service, J&K.

Government Order No. 319 - Home of 2016
Dated: 08.06.2016.

Whereas, Shri Mohammad Abdullah Bhat R/o Wachi, Tehsil Shopian, Fireman expired on 20.02.1991 while in service. Shri Mohammad Yaseen Bhat S/o Late Fireman Mohammad Abdullah Bhat R/o Wachi Tehsil Shopian applied for compassionate appointment in terms of SRO 283 of 1991 dated 24.09.1991. The Fire and Emergency Services Department referred the case of Shri Mohammad Yaseen to the Administrative Department vide communication No. 99961/1656 dated 02.03.1994 for consideration of his appointment as Fireman in terms of SRO 283 of 1991; and

Whereas, the Administrative Department vide communication dated 27.05.1994 advised the Fire and Emergency Services Department to process the case in terms of SRO 43 of 1994 dated 2nd February, 1994 which had come into effect w.e.f 24th September, 1991 and the Compassionate Appointment Rules of 1991 stand repealed by virtue of the said SRO; and

Whereas, Shri Mohammad Yaseen Bhat approached the Hon’ble High Court of J&K Srinagar through the medium of writ petition SWP 1993/96 which was disposed of by the Hon’ble High Court on 21.04.2008 with the following directions:

“....to accord consideration to the case of the petitioner for compassionate appointment in terms of SRO 283 of 1991. Petitioner shall be at liberty to produce all the documents before the competent authority on which he seeks to rely in support of his claim. The appropriate orders shall be passed by the respondents within a period of 04 months and communicated to the petitioner.”
Whereas, Fire and Emergency Services Department considered the claim of the petitioner pursuant to the above said Court order dated 21.04.2008 and rejected it. The petitioner was accordingly informed vide communication No. DGF&ES/Legal/2011/5365/70 dated 24.08.2011. The Fire and Emergency Services Department also filed compliance report to the contempt petition filed by the petitioner before the Hon’ble High Court of J&K; and

Whereas, the petitioner has again approached the Hon’ble High Court of J&K through the medium of SWP No. 2150 of 2014 CMP No.3416/2014 titled Mohammad Yaseen Bhat v.State and others. The writ petition has been disposed of by the Hon’ble High Court vide its order dated 30.07.2015 which reads as under:

“By issuance of writ of Certiorari, the impugned order No. DGF&ES/Legal/2011/5365/70 dated 24th August, 2011 is quashed. Respondents are directed to accord consideration to the claim of the petitioner afresh in terms of earlier judgement and in view of the reasons recorded in this order. Fresh consideration be accorded within four weeks from the date copy of this order is served on them.”

Whereas, the claim of the petitioner has been considered afresh in due reference to the order dated 30.07.2015 of the Hon’ble High Court of J&K Srinagar passed in SWP No.2150 of 2014, CMP No.3416/2014 titled Mohammad Yaseen Bhat v. State and others and it has been found that:-

(i) The case relating to the compassionate appointment of the petitioner was earlier examined in consultation with the General Administration Department (GAD). The GAD vide U.O dated 31.05.2010 has advised as under:

“Returned. The case is belated one and no element of compassion exists which would warrant appointment of the applicant under SRO-43 of 1994 that too in relaxation of rules.”

(ii) The case has been again examined in consultation with the GAD in reference to the order dated 30.07.2015 of Hon’ble High Court. The GAD vide U.O dated 11.05.2016 has advised as under:

“Returned. The department is advised to accord consideration to the claim of petitioner afresh, as directed
by the Hon'ble Court in term of its order dated 30.07.2015, by issuing the speaking order, as per the advise conveyed vide U.O. No. GDC-32/CM/95-SRO dated 31.05.2010."

(iii) SRO 43 of 1994 which is presently in vogue and applicable to the instant case provides for acquisition of eligibility in terms of age/qualification for appointment under compassionate grounds within five years from the date of death of the government employee, provided that the candidate has applied within one year from the date of death of deceased person. The objective of the compassionate appointment is to provide immediate succor to the bereaved family to enable it to tide over sudden financial crisis. The element of compassion is not discernible in a case which dates back to two and a half decades. Further, the case does not satisfy the provisions of SRO 43, being time barred.

Now, therefore, the claim of Shri Mohammad Yaseen Bhat S/o Late Fireman Mohammad Abdullah Bhat R/o Wachi, Tehsil Shopian, for compassionate appointment as Fireman in Fire and Emergency Services Department having being considered in compliance with the order dated 30.07.2015 of the Hon'ble High Court of J&K Srinagar passed in SWP No.2150 of 2014, CMP No.3416/2014, has been found to be devoid of any merit for the reasons hereinto above and is accordingly rejected.


Sd/-
(R. K. Goyal) IAS
Principal Secretary to Government
Home Department

No.Home/SRO-43/10/2015
Dated: 8.06.2016.

Copy to:-
1. Commissioner/Secretary of Government, General Administration Department.
2. Director General, Fire and Emergency Services, J&K.
3. Private Secretary to Principal Secretary to Government Home Department.
5. Incharge Website, Home Department.

(Mushtaq Ahmad) KAS
Deputy Secretary to Government
Home Department