

**HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR**

LPA No. 180/2017 in SWP No. 2430/2015

Reserved On: 12th of February, 2026.

Pronounced On: 4th of March, 2026.

Uploaded On: 4th of March, 2026.

Whether the operative part or
full Judgment is pronounced: **Full.**

- 1. State of Jammu & Kashmir,**
Through Principal Secretary to Government,
Home Department, Civil Secretariat, J&K,
Jammu/ Srinagar.
2. Commissioner/ Secretary to Government,
General Administration Department,
Civil Secretariat, J&K, Jammu/ Srinagar.
3. Director General of Police, Prisons,
J&K, Jammu/ Srinagar.
4. Superintendent, District Jail, Jammu.

... Appellant(s)

Through: -

Ms Maha Majeed, Assisting Counsel vice
Mr Mohsin-ul-Showkat Qadri, Sr. AAG.

V/s

1. **Irshad Ahmad Sheikh**, Age: 24 Years
S/O Abdul Rehman Sheikh
R/O Sardab, Tehsil Gurez, District Bandipora.
2. **Mst. Khadmi Begum**, Age: 49 Years
Widow of Abdul Rehamn Sheikh
R/O Sardab, Tehsil Gurez, District Bandipora.

... Respondents

Through: -

None.

CORAM:

**HON'BLE MS JUSTICE SINDHU SHARMA, JUDGE
HON'BLE MR JUSTICE SHAHZAD AZEEM, JUDGE**

(JUDGMENT)

SHAHZAD AZEEM-J:

01. This *intra* Court appeal is directed against the Judgment dated May 27, 2015 passed by the learned Single Judge [“the Writ Court] in SWP

No. 2430/2025 titled '**Irshad Ahmad Sheikh & Anr. v. State of J&K and Ors.**', whereby, the Writ Court has quashed the rejection Orders for appointment on compassionate grounds, and directed the Appellants-Respondents to consider and issue appointment order in favour of Respondent No.1 herein.

02. Succinctly stated, one Abdul Rehman Sheikh, while working as a Warder in the Prisons Department, had died in harness on June 08, 1998. After 11 years of the death of his father, the Respondent No.1-Irshad Ahmad Sheikh, on February 26, 2009, had applied for appointment on compassionate grounds, but being minor, aged 07 years, one month and 28 days at the relevant time, therefore, his case, though processed by the Department, but same was rejected in terms of communication dated August 12, 2015 by the Home Department, on the ground that same is not covered under second *proviso* to sub-rule (1) of Rule 3 of the Jammu and Kashmir (Compassionate Appointment) Rules, 1994 ["the Rules of 1994"] and, subsequently, conveyed to Respondent No.1, vide communication dated August 17, 2015.

03. The Respondents No. 1 and 2, being son and widow of the deceased-Abdul Rehman Sheikh (Warder), called in question the aforesaid rejection Orders dated August 12, 2015 and August 17, 2015, respectively, by filing SWP No. 2430/2015 titled '**Irshad Ahmad Sheikh & Anr. v. State of J&K and Ors.**'. The Writ Court, vide Judgment dated May 27, 2015, has quashed the Orders of rejection and directed the Appellants-Respondents to consider and appoint the Respondent No.1.

04. The Appellants have assailed the impugned Judgment mainly on the ground that though the case of the Respondent No.1 was processed and submitted before the competent authority, but same was not agreed to, for not being covered under the second *proviso* to sub-rule (1) of Rule 3 of the Rules of 1994. Therefore, the Writ Court, without taking into consideration that the claim being time barred in view of the limitation period, as provided under the Rules of 1994, has vide the impugned

Judgment, directed for appointment of the Respondent No.1 on compassionate grounds.

05. Further contention of the Appellants is that the Writ Court has placed reliance on the judgments cited by the learned Counsel for the Respondents-Petitioners which came to be passed entirely on different facts, therefore, impugned Judgment being contrary to statutory provisions and the law governing the subject, thus, is liable to be set aside.

06. Be it noted that Rule 3 of the Rules of 1994 deals with the appointment on compassionate grounds, which, *inter alia*, provides that an eligible family member of a deceased Government employee may be appointed against a vacancy in the lowest rank of non-gazetted service or Class-IV post having qualification as prescribed under the relevant Recruitment Rules, provided the applicant is eligible and qualified for such post or acquires such eligibility and qualification within a period of one year from the date of death of the deceased person and further second *proviso* lays down that no application for compassionate appointment under these Rules shall be entertained after the period of one year from the date of death of the deceased person. Therefore, in terms of Rule 3 of the Rules 1994, the eligible family member of the deceased Government employee has to acquire the eligibility within one year from the date of death of the deceased and further the application for compassionate appointment under these Rules has to be made within one year from the date of death of the deceased person. However, in the case on hand, since the Respondent No.1 was minor at the time of death of the deceased Government employee and, thus, had applied after about 11 years, therefore, his case was rejected because he was required to apply within one year, which period was subsequently extended to five years, vide SRO 177 dated June 20, 2014.

07. Admittedly, the Respondent No.1-the son of the deceased Government employee has attained the age of majority in the year 2009, i.e., after a period of 11 years from the date of death of the deceased Government employee, whereas, he was to acquire the eligibility within

five years from the date of death of the deceased Government employee and further was required to apply within one year from the death of the deceased. However, the learned Writ Court did not consider the limitation period as provided under the Rules of 1994.

08. On going through the averments contained in the Writ Petition, it appears that an attempt has been made by the Respondents to wriggle out of the limitation period as provided under *provisos* to Rule 3 of the Rules of 1994 by projecting a case, as if the Respondent No.2 initially had applied within time, but by the time she could have been considered for compassionate appointment, she had become over-age. However, on testing this factual aspect on the touchstone of the pleadings as contained in the memo of the Writ Petition, the Respondent No.2 stated to have approached the Appellants herein for her appointment and also for grant of service incentives of her deceased husband, but she was told by the Department that she could not be offered Government job because she is illiterate. However, it is further specifically averred in the memo of Writ Petition that the Director General of Police (Prisons) asked her to provide the duplicate copies of the documents that the Respondent No.2 had submitted to the Department so that the case may be processed, but the Respondents had failed to provide the same. Once Respondents are on admission that they failed to provide the requisite documents of Respondent No.2, in that event, no blame can be put on the Appellants for not considering her case within time, particularly when she admits that she is illiterate.

09. The Appellants have taken a consistent stand that no record is traceable to show that the Respondent No.2 had applied for compassionate appointment, however, to the contrary, the Respondents were on admission that when the Respondent No.2 was asked to provide the duplicate copies of the application, she failed to provide the requisite documents. Therefore, the contention of the Respondents that initially the Respondent No.2 had applied but not considered is falsified by their own admission, as is borne out from the contents of the Writ Petition itself.

10. It appears that the Writ Court did not take into consideration the statutory period of limitation as contained under Rule 3 of the Rules of 1994 and also the factual backdrop in which the Judgments reported as; 2007 STPL (LE) 37551 SC and SWP No. 777/2012 came to be passed.

11. At this stage, it is relevant to note that the '**Syed Khadim Hussain v. State of Bihar & Ors., 2007 STPL (LE) 37551 SC**' was a case where it was found by the Hon'ble Supreme Court that the application for compassionate appointment was rejected merely because it was not on the prescribed format and, thus, it was held that the authorities are expected to act in a facilitative and benevolent manner. But, here in the case on hand, the applicant was not eligible at the relevant time. Similarly, the '**Tahir Bashir & Anr. v. State & Ors., (SWP No. 777/2012)**' was a case where rejection was sought to be justified on the ground that the deceased Constable had earlier been deputed for Guard duty at Pampore and that in the year 1990 due to heavy explosives, bridge was damaged and thus due to dereliction of his duty, he was removed from the service and, as such, was assassinated during the period he was out of service.

12. Therefore, on analytical comparison, one would find that there is no similarity insofar as the case on hand is concerned and the cases relied upon by the Writ Court.

13. The primary object for compassionate appointments is to provide swift succor to prevent the family from falling into destitution. However, belated applications are viewed with circumspection. The rationale is that if the family has managed without assistance for a sustainable period, it emphasizes that they have alternative means of substance, negating the need for compassionate relief. In the case on hand, the Respondent No.2 admittedly was illiterate and at the same time is on admission that she could not provide the requisite documents and, in this regard, the Appellants have also taken the consistent stand that her application was not traceable/ available. Therefore, the inordinate delay of 11 years had rendered the claim of the Respondents as time barred,

particularly when under the Statute, the maximum period to apply for compassionate appointment is one year from the date of the death of the deceased. Therefore, under these circumstances, there is a presumption that the family of the deceased Government employee has means to survive and thus cannot claim the compassionate appointment as a matter of right.

14. In somewhat similar circumstances, a case for compassionate appointment was rejected and reason for such rejection was assigned that from the date of death of the father of the Appellant, till he having become major, 11 years had passed, rendering the claim time barred when taken from the date of death of the father of the Appellant. When this matter had come up before the Hon'ble Supreme in '**Tinku v. State of Haryana & Ors., 2024 SCC OnLine SC 3292**', the Hon'ble Supreme Court, while negating the claim being time barred, observed thus:

"15. The purpose, therefore, of such policies is to give immediate succor to the family. When seen in this conspectus, three years as has been laid down from the date of death of the employee for putting forth a claim by a dependent, which, includes attainment of majority as per the 1999 policy instructions issued by the Government of Haryana cannot be said to be in any case unjustified or illogical, especially when compassionate appointment is not a vested right.

16. In the present case, as is apparent from the record, the Appellant attained majority 11 years after the unfortunate death of his father. The claim, thus, has rightly been rejected by the respondent State. The decisions of the High Court vide the impugned judgments rejecting the claim of the Appellant thus, cannot be faulted with."

15. While testing the impugned Judgment on the touchstone of the Rules of 1994 and the object and purpose underlying the compassionate appointment, we are of the considered view that the learned Writ Court has failed to consider the limitation period for applying and acquiring the eligibility for appointment on compassionate grounds, therefore, in contravention to the statutory provisions, has passed the impugned Judgment in respect of a time barred claim.

16. Yet for another reason, the impugned Judgment is not sustainable, in that the Judgments cited and relied upon by the Writ Court are distinguishable on facts and have no application to the instant case. The material facts in the said precedents are materially different and bear no resemblance to the facts of the present case. Consequently, the impugned Judgment, being founded inter alia on such inapplicable precedents is not sustainable in law and thus deserves to be interfered with.

17. In view of above, the instant appeal is **allowed** and the impugned Judgment passed by the Writ Court is set aside. Resultantly, Writ Petition filed by the Respondents herein, being SWP No. 2430/2015, shall stand **dismissed**.

18. Letters Patent Appeal is, thus, **disposed** of in the above terms, along with pending CM(s), if any.

(SHAHZAD AZEEM)
JUDGE

(SINDHU SHARMA)
JUDGE

SRINAGAR
March 4th, 2026
"TAHIR"

i. Whether the Judgment is approved for reporting?

Yes/ No.