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WP No. 23359 of 2026

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27-07-2026

CORAM

THE HON'BLE MR JUSTICE S. M. SUBRAMANIAM

AND

THE HON'BLE MR.JUSTICE N.SENTHILKUMAR

**WP No. 23359 of 2026 AND
WMP NO. 25327 OF 2026**

1. Union of India
Rep by the Chief Postmaster General,
Tamil Nadu Circle Chennai.
2. The Postmaster General
Chennai City Region,
Chennai.
3. The Senior Superintendent of Post Offices
Chennai City Central Division.
Chennai

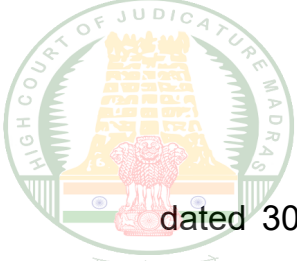
..Petitioners

Vs

1. M Palani died
S/o. M.Manickam,
No.612 Tiruchy Chinnasamy Street,
Periyar Nagar, Vyasarpadi, Chennai.
2. P Usha
W/o. late M.Palani,
No 612 Tiruchy Chinnasmy Street, Periyar
Nagar, Vysarpadi, Chennai

..Respondents

Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari calling for the records pertaining to order



WP No. 23359 of 2026

dated 30-11-2023 in Original Application No. 751 of 2017 on the file of the Honourable Central Administrative Tribunal, Chennai Bench, and quash the same.

For Petitioners : Mr.A.R.Sakthivel
For Respondent(s): R-2 - No Appearance,
R1 - Died

Order

(Order of the Court was made by S.M.Subramaniam J.)

Union of India preferred the present writ petition challenging the order of the Central Administrative Tribunal, Chennai Bench dated 30.11.2023 passed in O.A.No.757 of 2017.

2. Though notice has been served on the second respondent, none entered appearance.

3. The first respondent / deceased employee was appointed as Postman on 03.07.1996. He remained unauthorisedly absent from attending duty with effect from 01.01.2010. Since he remained continuously absent, departmental disciplinary proceedings were initiated. The respondent failed to produce any medical certificate or leave application. The department sent letters asking the respondent to join duty, but he remained untraceable. Thus,



a charge sheet dated 09.07.2013 was issued under Rule 14 of the CCS (CCA) Rules, 1965. Exparte enquiry was conducted and based on the findings of the enquiry officer, the first respondent was removed from service on 18.12.2014. After a lapse of about two years from the date of removal from service, he submitted a representation to the authorities for grant compassionate allowance under the Pension Rules. Since it was not considered, Original Application came to be filed.

4. The Tribunal allowed the application mainly on the ground that the first respondent served the department for 14 years and therefore he is eligible for grant of compassionate allowance. Further, the penalty for removal from service was imposed based on the proven charges of unauthorised absence and it is not related to dishonesty or any moral turpitude. On that basis, compassionate allowance was directed to be paid to the respondent. Thus, the Union of India has preferred the present writ appeal.

5. Rule 41 of the CCS Pension Rules, 1972 reads as under:

41. Compassionate allowance.-

(1) A Government servant who is dismissed or removed from service shall forfeit his pension and gratuity: Provided that



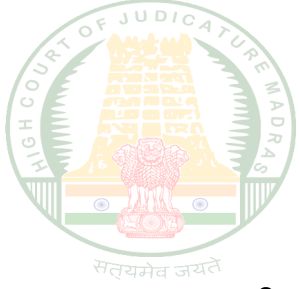
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the authority competent to dismiss or remove him from service may. if the case is deserving of special consideration, sanction a compassionate allowance not exceeding two - thirds of pension or gratuity or both which would have been admissible to him if he had retired on superannuation pension.

6. Pension is a right conferred under the Pension Rules. However, pension is to be granted in accordance with the Schemes applicable to a government employee. The benefit of pension is to be extended to an employee who has completed the qualifying service and allowed to retire from service.

7. In the present case, the respondent remained unauthorisedly absent for about four years. Departmental disciplinary proceedings was initiated against him and after conducting enquiry he was imposed with the punishment of removal from service. The effect of removal or dismissal from service has been stated under Rule 24 of the Pension Rules. Rule 24 of the CCS Pension Rules reads as under:

“24. Forfeiture of service on dismissal or removal.- Dismissal or removal of a Government servant from a service or post shall entail forfeiture of his past service.”



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8. The circumstances for grant of compassionate allowance would arise when an authority competent to dismiss or remove an employee from service may, if the case is deserving, on special consideration, sanction compassionate allowance not exceeding two-third of pension or gratuity or both, which would have been admissible to him, if he had retired on superannuation. Thus, compassionate allowance may be granted at the discretion of the competent authority on certain special circumstances. Therefore, the Courts in exercise of the powers of judicial review, cannot issue a direction to grant compassionate allowance, since it is not a right conferred on the employee removed or dismissed from service.

9. A distinction is to be drawn between a right and a concession extended under the Statute or Rules in force. If a Statute or Rules confers an absolute right, then the Courts are empowered to issue direction to enforce the right. However, if it is a concession, the scope of interference by the Courts in exercise of powers of judicial review is limited.

10. In the present case, an employee was removed from service pursuant to a departmental disciplinary proceedings. Rule 24 of the CCS Pension Rules says that dismissal or removal amounts to forfeiture of past



service. Therefore, while passing an order of removal or dismissal, the competent authority may, if the case is deserving a special consideration, grant compassionate allowance by invoking Rule 41. Pertinently, the language employed under proviso clause to Rule 41(1) is "may". Therefore, the discretion vest with the competent authority to weigh the special circumstances and grant compassionate allowance by invoking Rule 41. Therefore, the Court cannot assume the benefit under Rule 41 of the CCS Pension Rules right conferred and issue direction to grant pension.

11. In the present case, the competent authority while passing the order of removal, has not considered for grant of compassionate allowance to the respondent under rule 41 of CCS Pension Rules. Court granting the relief by directing the authorities to sanction compassionate allowance under Rule 41 of the Pension Rules would result in a wrong precedence. All removed and dismissed employees will also claim compassionate allowance under Rule 41 as a matter of right, which is not the scope and object of Rule 41 under the Pension Rules. In respect of dismissed or removed employees, Rule 24 would apply directly. Thus, their past services are forfeited. Grant of compassionate allowance in respect of removed employee is to be considered only by the competent authority while issuing the order of removal or dismissal. Thus, compassionate allowance under rule 41 is not a right, but a



WP No. 23359 of 2026

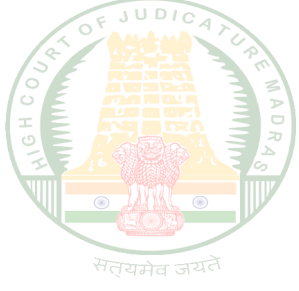
concession to be considered by the competent authority. In the absence of establishing any right under the Rules, the Court may not issue a direction to grant compassionate allowance, which would result in larger repercussions since all the dismissed or removed employees will claim compassionate allowance as a matter of right.

12. In view of the above discussion, the order dated 30.11.2023 in Original Application No.751 of 2017 is set aside and the writ petition stands allowed. No costs. Consequently, connected miscellaneous petition is closed.

(S.M.S.,J.) (N.S.,J.)
27-07-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No

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WEB COPY



WP No. 23359 of 2026

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