

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

LPA No.1154 of 2016 (O&M)

Date of Decision: 23.08.2016

Hari Singh

... Appellant

VS.

Punjab and Haryana High Court & Ors.

... Respondents

CORAM: HON'BLE MR.JUSTICE SURYA KANT

HON'BLE MR.JUSTICE SUDIP AHLUWALIA

- | | |
|---|-----------------|
| 1. <i>Whether speaking/reasoned?</i> | Yes / No |
| 2. <i>Whether reportable?</i> | Yes / No |
| 3. <i>Whether Reporters of local papers may be allowed to see the judgment?</i> | Yes / No |
| 4. <i>To be referred to the Reporters or not?</i> | Yes / No |
| 5. <i>Whether the judgment should be reported in the Digest?</i> | Yes / No |

Present: Mr. Manish Dadwal, Advocate for the appellant

SURYA KANT, J. (Oral)

(1) This Letters Patent Appeal assails the order dated 04.05.2016 whereby learned Single Judge has dismissed the appellant's writ petition and rejected his claim for "compassionate allowance" under Rule 2.5 of the Punjab Civil Service Rules, Vol.-II.

(2) The facts may be briefly noticed. The appellant was working as a Process Server in the office of the District & Sessions Judge, Hoshiarpur where he was charge-sheeted on 07.09.1995; enquiry held and the misconduct was proved. Resultantly, he was ordered to be removed from service on 03.02.1996. His statutory appeal was dismissed by the Administrative Judge. So was the fate of the writ petition filed by him. The appellant then approached the Hon'ble Supreme Court and his SLP too was dismissed. The order of removal from service thus attained finality for all intents and purposes.

(3) In the year 2008, the appellant made a representation to grant him “compassionate allowance” under Rule 2.5 of the Punjab Civil Services Rules Vol.-II which reads as follows:-

“No pension may be granted to a Government employee dismissed or removed for misconduct, insolvency or inefficiency, but to government employee so dismissed or removed, compassionate allowances may be granted when they are deserving of special consideration. Provided that the allowances granted to any government employee shall not exceed two-third of the pension, which would have been admissible to him if he had retired on medical certificate.”

(4) As the competent authority declined the compassionate allowance, the appellant filed the writ petition which has been dismissed by learned Single Judge observing that the ‘compassionate allowance’ can be granted only in exceptional circumstances and not for fulfillment of family responsibilities as were pleaded by the appellant, namely, that he has a wife and three children to fend.

(5) The aggrieved appellant has filed this appeal. Strong reliance is placed on the judgment of Hon’ble Supreme Court in **Mahinder Dutt Sharma vs. Union of India (2014) 11 SCC 684.**

(6) Having heard learned counsel for the appellant, we do not find any valid ground to interfere with the order passed by learned Single Judge. Rule 2.5 of the Rules *ibid* is couched in negative language where under no pension is admissible to a “Government employee dismissed or removed for misconduct, insolvency or inefficiency”. As an exception the Rule provides that in a deserving case of exceptional circumstances, the compassionate allowance can be granted.

(7) The appellant has attempted to carve out an exception in his favour on the plea that he is married and has three children and that he has twice met with road accidents. In our considered view, such like family circumstances do not fall within the ambit of 'special consideration'. Had the appellant been so concerned about his family responsibilities, he would have been very careful in performance of his duties, leave apart committing a misconduct which led to his removal from service.

(8) The record reveals that the appellant brazenly disobeyed the orders of learned District & Sessions Judge and refused to perform the duties on the premise that the Process Server as a group had approached the High Court in a writ jurisdiction to hold them that they are not to be treated as Class-IV employees. An employee who dares to question the authority of his superior authorities and defy the lawful directions, for no rhyme or reason, cannot be taken as a case of 'special consideration' to seek compassionate allowance. The appellant's case thus squarely falls within the exception (ii) of Para 13 of the judgment of the Hon'ble Supreme Court in **Mahinder Dutt Sharma's** case (supra).

(9) No case to interfere with the order passed by learned Single Judge is made out.

(10) Dismissed.

(Surya Kant)
Judge

23.08.2016
vishal shonkar

(Sudip Ahluwalia)
Judge