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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 1721/2016**

Decided on : 01.03.2016

IN THE MATTER OF:

EX. CT. BIRENDER SINGH

..... Petitioner

Through : Mr. A.K. Trivedi with
Mr. Ashok K. Vij, Advocates

versus

UNION OF INDIA & ORS

..... Respondents

Through : Mr. Vivek Goyal with
Mr. Arpit Shukla, Advocates

CORAM:

HON'BLE MS. JUSTICE HIMA KOHLI

HON'BLE MR. JUSTICE SUNIL GAUR

HIMA KOHLI, J. (Oral)

1. The petitioner, who was working at the post of a Constable (GD) with the BSF and was dismissed from service, vide order dated 12.7.2007, on the ground of accepting an amount of Rs.13,000/- from a smuggler and allowing safe passage to 17 cattle heads from his AOR to Bangladesh, has raised a grievance that after passing the impugned order, he had submitted a representation dated 13.4.2015 to the respondents requesting that he be granted compassionate allowance, but the same was summarily rejected, vide order dated 12.10.2015 with an observation that he was a habitual offender.

2. Counsel for the petitioner submits that at the time of passing the impugned order, the respondents did not carefully consider the scope of Rule 41 of CCS (Pension) Rules, 1972 and nor have they considered the petitioner's case in the light of several decisions of the Supreme Court and the High Court on the aforesaid aspect, particularly the judgment dated 26.8.2010 passed by the Division Bench in **WP(C)No.2556/2010** entitled 'Ex. L/NK Mahabir Prasad vs. UOI & Ors.', that was followed in **WP(C)No.2925/2013** entitled 'Balbir Singh vs. UOI & Ors.'

3. On perusing the impugned order dated 12.10.2015, it transpires that while the respondents have referred to the fact that the petitioner was a habitual offender and had been inflicted punishments on several occasions, they have not considered the petitioner's socio-economic background as sought to be highlighted by him in para 4 of his representation dated 13.4.2015. We may also note at the same time that the petitioner has also not furnished any documents to substantiate his claim that he has an ailing wife, who needs constant medical attention and nor has he given a profile of his family, including his dependent son and daughter.

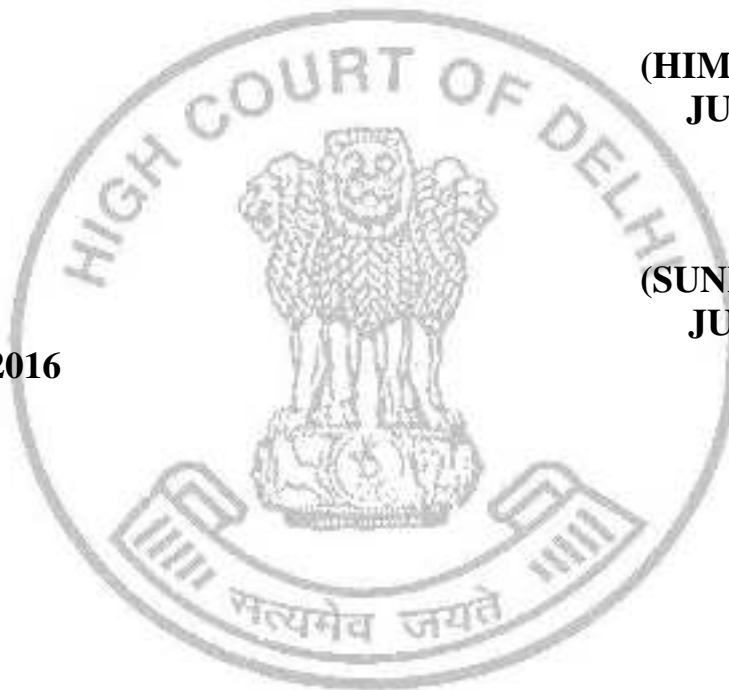
4. Counsel for the petitioner states that his client may be permitted to submit a fresh representation to the respondents for grant of compassionate allowance and at the time of making such a representation, he shall furnish all the relevant documents which the respondents may be directed to consider before passing a speaking order.

5. In view of the aforesaid submission, the impugned order dated 12.10.2015 is quashed and set aside and the present petition is disposed of with liberty granted to the petitioner to submit a fresh representation for grant

of compassionate allowance under Rule 41 of CCS (Pension) Rules, 1972 within two weeks. The respondents shall consider the said representation and decide the same by passing a speaking order under written intimation to the petitioner within four weeks from the date of receipt thereof.

6. If the grievance of the petitioner still survives, he shall be at liberty to seek his remedies as per law.

MARCH 01, 2016
sk /rkb



(HIMA KOHLI)
JUDGE

(SUNIL GAUR)
JUDGE