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

+ **W.P.(C) 9384/2017**

KARAM CHAND

..... Petitioner

Through: Mr.Anand Mishra, Advocate.

versus

UNION OF INDIA & ORS

..... Respondents

Through: Mr.Kamal Kant Jha, Sr. Panel Govt.
Counsel with Mr.Krishna Kumar and
Mr.Siddharth Jha, Advocates.

CORAM:

JUSTICE S. MURALIDHAR

JUSTICE SANJEEV NARULA

ORDER

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06.12.2018

1. The grievance in this writ petition is that the Petitioner's request for companionate allowance in terms of Rule 41 of the CCS (Pension) Rules has been rejected by the impugned order dated 4th February, 2016 without any reasons.

2. This Court has perused Rule 41 as well as the Government of India's orders guiding the interpretation of that Rule and in particular G.I., M.F. Memo No.3(2) – R-ii/40 dated 22nd April, 1940, which continue to apply. The guiding principles require the examination of the type of misconduct i.e. “not only the actual misconduct or course of misconduct which occasioned the dismissal or removal of the officer, but also the kind of service he has rendered”.

3. One ground for disqualification is where a legitimate inference can be drawn that “the officer has been dishonest.” Special regard is required to be paid to the fact that the officer has a wife and children dependent on him, though this factor in itself is not sufficient to grant compassionate allowance. In other words, there are sufficient guidelines for the exercise of discretion when such request is placed before the competent Authority.

4. In the present case, after setting out in four paragraphs the background facts, in the last paragraph of the impugned order dated 4th February 2016 it is stated: “Therefore, considering the above facts your plea for companionate allowance is considered and rejected is devoid of any merit,”

5. Plainly the above order and does not satisfy the requirement of law. It is order without reasons and without any application of mind to the requirements of Rule 41 of the CCS (Pension) Rules, 1972.

6. The impugned order is accordingly set aside and the matter is again placed before the Commandant 130, Battalion, BSF for a fresh consideration of the Petitioner’s request and for passing a reasoned order thereon in the light of the above legal position.

7. The order be passed afresh not later than six weeks from today and be communicated to the Petitioner within two weeks thereafter. If the Petitioner is still aggrieved by the fresh order, it will be open to him to seek appropriate remedies that may be available to him in

accordance with law.

8. The petition is disposed of in the above terms.

9. Copy of the order be given *dasti* under the signatures of the Court Master.

S. MURALIDHAR, J.

SANJEEV NARULA, J.

DECEMBER 06, 2018
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