

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.20708 of 2019

DATE OF DECISION:27.08.2019

Mohinder Singh

... Petitioner

Versus

State of Punjab and others

... Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Nikhil Anand, Advocate
for the petitioner.

HARSIMRAN SINGH SETHI, J. (ORAL)

In the present writ petition, the claim raised by the petitioner is that though the petitioner was convicted and imprisoned vide judgment dated 20.08.2002, in pursuance of which, he was dismissed from service on 02.08.2007 w.e.f. 20.08.2002, the respondents are still liable to consider his case under Rule 2.5 of Punjab Civil Services Rules Vol.2 for the grant of compassionate allowance.

Counsel for the petitioner very fairly submits that on the day when the petitioner was dismissed from service w.e.f. 2002, there were no compelling circumstances for the grant of compassionate allowance but now in the year 2019, keeping in view the age of the petitioner and ailment from which he is suffering, the petitioner is

entitled for the grant of compassionate allowance.

The only question raised for consideration of this Court is whether after a period of 17 years of dismissal from service, the benefit can be granted to an employee under Rule 2.5 of the Punjab Civil Services Rules, Vol.2 and that too, when there is a clear admission on the part of the counsel for the petitioner that no special circumstances existed for the grant of compassionate allowance at the time of dismissal of the petitioner from service. Rule 2.5 is to be taken into consideration at the time when an employee is being dismissed or removed from service for misconduct. Rule 2.5 does not envisaged that the Rules can be brought into consideration for application at any given point of time after the dismissal till the concerned employees survive. Once the counsel for the petitioner had admitted before this Court that there were no special circumstances existing for the grant of compassionate allowance at the time of dismissal of the petitioner from service, therefore, the benefit cannot be granted after 17 years of the order of dismissal.

It is a settled principle of law that the application of Rule is to be seen on the day when cause of action arises i.e. when the petitioner was dismissed from service on account of conviction under Section 304 of the Indian Penal Code. The circumstances on which the petitioner is claiming the benefit of Rule 2.5 as on today i.e. after a period of 17 years of dismissal from service cannot be taken into consideration for operation of Rule 2.5. The old age and the ailments after 17 years of dismissal from service cannot be construed as special circumstance for the grant of the benefit under Rule 2.5.

Therefore, the claim of the petitioner for grant of compassionate allowance under Rule 2.5 cannot be accepted at this stage i.e. after 17 years of his dismissal from service and that too, on the grounds of old age and the ailments from which he is suffering at present.

For the reasons stated above, present writ petition stands dismissed.

August 27, 2019
jt

(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned: Yes / No
Whether reportable : Yes / No