

13.04.2023
DL-118
(PP)

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 2842 of 2023

Kendula Devi
Vs.
Union of India & Ors.

Mr. Saurabh Guhathakurata,
Ms. Prabhleen Bharara,
Mr. Sourav Sardar,
Ms. Nilanjana Sarkar
....for the petitioner.

Mr. Amit Chakraborti,
Ms. Indrani Chakraborty
....for Union of India.

The petitioner is the wife of a deceased constable who was employed with the Central Industrial Security Force (CISF). The petitioner's husband was **removed** from service on October 12, 1992. He challenged the said order of **removal** but during the pendency of the appeal died on September 12, 2021.

Mr. Guhathakurata, learned counsel appearing on behalf of the petitioner prays for compassionate allowance under Rule 41 of the Central Civil Services (Pension) Rule, 1972. The petitioner has filed a representation on February 25, 2023 for consideration of her prayer for compassionate allowance.

Mr. Chakraborti, learned counsel appearing on behalf of the respondents submits that such representation may be considered by the authorities concerned.

Considering the submissions of the parties and the materials placed on record, this Court finds that the petitioner may pray for compassionate allowance due to death of her husband even though under Rule 41 of the 1972 Rules a government servant who is 'dismissed' or **removed** from service is required to forfeit his pension and gratuity. Since the petitioner's husband was **removed** from service and during the consideration of the appeal he died on September 12, 2021, the authority which has the discretion to consider the issue of compassionate allowance was the authority which was competent to **remove** the husband of the petitioner.

In such view of the matter, let the respondent no.3/the Commandant consider the representation of the petitioner dated February 25, 2023.

Let a reasoned order be passed within 8 weeks from date upon giving a personal hearing to the petitioner and be communicated to the petitioner within 2 weeks of passing thereof.

The written instruction filed in Court today on behalf of Union of India/respondents is retained with the records.

With the directions aforesaid, **WPA 2842 of 2023 is disposed of.**

All parties shall act on the server copies of this order duly downloaded from the official *website* of this Hon'ble Court.

Urgent photostat certified copies of this order, if applied for, be supplied to the parties upon compliance of all necessary formalities.

(Lapita Banerji, J.)