

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

LPA No.126 of 2023 (O&M)
Date of Decision: 08.02.2023

Jagdish Chander

.....Appellant

Versus

State of Punjab and another

.....Respondents

CORAM: HON'BLE MR.JUSTICE RAVI SHANKER JHA, CHIEF JUSTICE
HON'BLE MR.JUSTICE ARUN PALLI, JUDGE

Present : Mr. Vineet Chaudhary, Advocate for the appellant.

ARUN PALLI, J.

This is an *intra Court* appeal, under Clause X of the Letters Patent, against an order and judgment dated 17.01.2023, rendered by the learned Single Judge, vide which, the writ petition preferred by the appellant was dismissed.

The facts that are required to be noticed are limited.

The appellant was employed with the respondent-department as Kanungo. He was implicated in FIR No.88 dated 07.06.1995, under Sections 420, 465, 467, 468, 471, 193 and 120-B of IPC, at Police Station, City Abohar. He was convicted by the Sub Divisional Judicial Magistrate, Abohar, on 28.11.2001, and sentenced for a period of two years under Section 467 and 1 year under Sections 120-B, 465, 468 and 471 IPC. His appeal against conviction was dismissed on 12.03.2004. Vide order dated 16.10.2008, the appellant was dismissed from service by the District Collector, Ferozepur, being guilty of criminal misconduct. Whereafter, in a criminal revision No.763 of 2004, filed by him and which was pending, this Court, vide judgment dated 22.11.2011, reduced his sentence under

Section 467 IPC to 1 year instead of 2 years. Further, in an SLP, preferred against the said judgment, the Supreme Court, vide order and judgment dated 29.10.2014, though affirmed his conviction but reduced the sentence of 1 year to the period already undergone. Later, in terms of Rule 2.5 of Punjab Civil Services Rules Vol.II, Part-II, which postulates awarding compassionate allowance to those employees who were dismissed or removed from service and not entitled to pension, he moved the authorities to claim the said benefit. However, vide a detailed order dated 17.12.2021, his claim was rejected. It was in this background, the appellant approached this Court, vide a writ petition, which, as indicated above, has since been dismissed.

Learned counsel for the appellant submits that the appellant was dismissed from service during the pendency of the criminal revision in which his sentence was reduced to 1 year for commission of offence under Section 467 IPC. And, eventually, 1 year sentence was further reduced to the period already undergone by him by the Supreme Court. Therefore, he submits that the authorities ought to have considered the intervening circumstances while examining his claim under Rule 2.5 (ibid). Further, he submits that his son, who was 27 years old and his wife aged about 69 years were dependent upon him and post his dismissal from service the family was/is suffering from acute financial crisis. Thus, in reference to the purport and intent of Rule 2.5 (ibid), he asserts that order passed by the authorities declining his claim as also the impugned order and judgment were unsustainable.

We have heard learned counsel for the appellant and perused

the records.

In context of the limited issues that arise for consideration, we consider it expedient, at the outset, to refer to Rule 2.5 (ibid):-

“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 allowance granted to any Government employee shall not exceed two-thirds of the pension which would have been admissible to him if he had retired on medical certificate.

Note 1-This rule vests Government with an absolute discretion to grant or not to grant any compassionate allowance, the only restriction being that if granted, it shall not exceed the maximum of two thirds of the pension that would be admissible to the officer concerned on retirement on medical certificate. It is practically impossible in view of the wide variations that naturally exist in the circumstances attending each case, to lay down categorically, precise principles that can uniformly be applied to individual cases. Each case has, therefore, to be considered on its merits and a conclusion has to be reached on the question whether there were any such extenuating

features in the case as would make the punishment awarded, though it may have been necessary in the interest of Government, unduly hard on the individual. In considering this question, it has been the practice to take into account not only actual misconduct or course of misconduct which occasioned the dismissal or removal of misconduct which occasioned the dismissal or removal of the officer, but also the kind of service he has rendered. Where the course of misconduct carries with it the legitimate inference that the officer's service has been dishonest, there can seldom be any good case for a compassionate allowance. Poverty is not an essential condition precedent to the grant of a compassionate allowance, but special regard is also occasionally paid to the fact that the officer has a wife and children dependent upon him, though this factor by itself, is not except perhaps in the most exceptional circumstances, sufficient for the grant of a compassionate allowance."

A bare analysis of the rule, extracted above, reveals that even though a government employee who was dismissed or removed from service may not be entitled to pension but he may be granted compassionate allowance **if he is deserving of special consideration.**

Further, note-1 spells out that Rule 2.5 (ibid) vests Government with an absolute discretion to grant or not to grant any

compassionate allowance, and each case has to be examined independently in view of its attending circumstances. And a conclusion has to be reached on the question if there were any extenuating features that would make the punishment awarded unduly harsh. Further, where the course of misconduct carries with it the legitimate inference that the officer's service has been dishonest, there can seldom be any good case for compassionate allowance. Though a special regard is also occasionally paid to the fact that the officer has a wife and dependent children but that by itself, except in exceptional circumstances is not sufficient for grant of compassionate allowance. Likewise, poverty is not a condition precedent to grant any such allowance.

Undoubtedly, the sentence awarded to the appellant by the trial Court, affirmed by the learned Sessions Judge, was reduced by this Court to 1 year and further reduced by the Supreme Court to the period already undergone. But his conviction and the finding as to forging the document were not intervened with. It would be apposite to point out, at this stage, that one Kewal Krishan, had moved the Principal Home Secretary, Punjab, Chandigarh, for taking action against the appellant and three others for forging the Will of his father. While the other three accused were involved in forging and signing as attesting witnesses, the appellant was accused of affixing seal of his father, Fateh Chand, Deed Writer, bearing No.13, Abohar had also forged his signatures on the said Will.

Ex facie, as concluded by the learned Single Judge, the appellant, failed to show that he deserved any special consideration and

there exists any extenuating circumstances, that impelled the authorities to exercise its discretion in awarding compassionate allowance to the appellant under Rule 2.5 (ibid).

In the wake of the position, as sketched out above, we are dissuaded to interfere with the impugned order and judgment rendered by the learned Single Judge. The appeal being bereft of merit is accordingly dismissed.

(RAVI SHANKER JHA)
CHIEF JUSTICE

(ARUN PALLI)
JUDGE

08.02.2023
Manoj Bhutani

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