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IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

CWP-20533-2023 (O&M)  
Date of Decision: 21.09.2023

Gurmej Singh  
Vs.  
State of Punjab and others  
..... Petitioner  
..... Respondents

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**CORAM: HON'BLE MR. JUSTICE SANJEEV PRAKASH SHARMA**

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Present: Mr. Manu K. Bhandari, Advocate, with  
Mr. Rohit Kataria, Advocate  
for the petitioner.

Mr. Paramjit Batta, Addl. A.G., Punjab.

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**SANJEEV PRAKASH SHARMA, J.(Oral)**

1. The petitioner has preferred this writ petition with a prayer to direct the respondents to grant compassionate allowance to him in terms of Rule 2.5 of the Punjab Civil Services Rules (for short 'the Rules').
2. Learned counsel submits that the petitioner had been dismissed from service, however, Rule 2.5 of the Rules leaves room for the government employees, so dismissed or removed, to receive compassionate allowance if they are otherwise deserving of special consideration.
3. Learned counsel submits that the petitioner had put in about 16 years of service with the respondents and the same deserves to be taken into consideration for grant of compassionate allowance. He further submits that the petitioner had submitted a representation to the authorities whereafter he also served a legal notice for demand of

justice to which reply has been received from the respondents wherein they have quoted the order of the Apex Court passed in the present petitioner's case and have stated that in view of the order passed by the Supreme Court, the petitioner is not entitled to get any pensionary benefits.

4. Learned counsel submits that the petitioner is not seeking pension but is only seeking compassionate allowance. He also relies on a judgment passed by the Supreme Court in *Mahinder Dutt Sharma vs. Union of India and others, 2014(11) SCC 684*, wherein the Apex Court has indicated that the compassionate allowance has to be considered independently of the punishment of dismissal or removal.
5. I have considered the submissions.
6. This Court finds that the petitioner had challenged the order of punishment as well as prayed for granting him pensionary benefits by filing a civil suit. The suit was partly decreed in his favour whereby so far as the punishment part is concerned, the same was upheld but it was clarified that he would be entitled to pensionary benefits for the period of 38 months prior to the date of filing of the suit.
7. In appeal, the Appellate Court upheld the judgment whereafter a second appeal was preferred before this Court. The High Court passed an order on 30.09.2015 dismissing the second appeal filed by the State of Punjab, whereafter Civil Appeal No.4990/2016 came up before the Supreme Court wherein the State of Punjab challenged the orders of directing the State to pay all retiral benefits and pensionary benefits to the petitioner (respondent therein).

8. While hearing the case, the Supreme Court took notice of the provisions of Rule 2.5 of the Rules, and considered the said aspect also which included the aspect regarding granting of compassionate allowance, and no argument was advanced on behalf of the petitioner (respondent therein) claiming for compassionate allowance instead of the regular pension.
9. It is settled law that when case is being decided by a Court of law, all the arguments relating to the issue are supposed to have been advanced and taken into consideration even if they do not form part of the judgment. The case of the petitioner was thoroughly examined by the Supreme Court and it was held as under:

*“Once it is found that the services of the respondent-original plaintiff was terminated for misconduct after holding departmental enquiry, and the same attained finality, Rule 2.5 shall come into play and he shall not be entitled to any pensionary benefits.*

*In view of the above, the present appeal succeeds and the judgment and decree passed by the learned trial Court, confirmed by the first appellate court and further confirmed by the High Court by the impugned judgment and order is hereby quashed and set aside. Consequently, it is held that the respondent-plaintiff shall not be entitled to any pensionary benefits.*

*The appeal is allowed accordingly. No costs.”*

10. Thus, after the final judgment passed by the Supreme Court, no scope is left for the petitioner to again take up the matter before this Court claiming compassionate allowance. Since the Supreme Court itself was having full knowledge about the aspect regarding granting of compassionate allowance, even to the employees who may be so

dismissed or removed, and having considered all the aspects, it reached to the conclusion that he shall not be entitled to any pensionary benefits which would also include the benefit of compassionate allowance which is part of the pensionary benefits in terms of Rule 2.5 of the Rules.

- 11.The judgment cited by the learned counsel for the petitioner is on distinctive facts wherein the only question before the Court was with regard to granting of compassionate allowance, and the petitioner therein did not claim relief other than compassionate allowance.
- 12.Since in the present case, the petitioner’s issue was alive before the Supreme Court in relation to any of the pensionary benefits which he may be given on account of dismissal or removal, and the Supreme Court has denied him any of the pensionary benefits, the respondents have rightly rejected his claim for compassionate allowance.
- 13.No case for interference is made out.
- 14.Writ Petition stands *dismissed* accordingly.
- 15.All pending applications also stand disposed of.

(SANJEEV PRAKASH SHARMA)  
JUDGE

September 21, 2023

Mohit goyal

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| 1. Whether speaking/reasoned? | Yes/No |
| 2. Whether reportable?        | Yes/No |