



2025:DHC:7115-DB



\$~30

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

Date of order: 12th AUGUST, 2025

IN THE MATTER OF:

+ **W.P.(C) 4553/2019**

USHA DEVI AND ORS.

.....Petitioners

Through: Mr. Virendra Singh, Adv.

versus

UNION OF INDIA AND ORS.

.....Respondents

Through: Mr. Sidharat Khatana, SPC; Mr. P. A Sheejo, AC, Mr. Banti Kumar, ASI and Inspector Prahlad Devenda
Mr. Siddharth Khatana, Adv.

CORAM:

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

HON'BLE MR. JUSTICE VIMAL KUMAR YADAV

JUDGMENT (ORAL)

1. The Petitioners have approached this Court with the following prayers:

“a) To pass a writ of mandamus against the respondents directing them to grant compassionate allowance to the petitioners, who are the legal heirs of , Late Satya Prakash Singh, HC/Driver who had been removed from service on account of overstay of 79 days.

b) Quash and set aside the letter dated 14.11.2018 issued by the respondents by stating that the petitioners was not entitled to get any pensionary benefits.

c) Direct the respondents to grant all other service



benefits payable to the Late Satya Prakash Singh, which was accrued on account of 23 years service.

d) Any other further order/relief which is Hon'ble Court may deem fit and proper in the facts and circumstances of the case, may also be passed in favour of the petitioner and as against the respondent."

2. The facts of the case reveal that Late Shri Satya Prakash, i.e. the husband of Petitioner No.1 herein, joined CISF in the post of Constable (Driver) in 1982 and he was later on promoted as Head Constable (Driver). Petitioner No.2 is the daughter of Late Shri Satya Prakash and Petitioners No.3 & 4 are the sons of Late Shri Satya Prakash.

3. Material on record indicates that the husband of Petitioner No.1 overstayed his leave by 79 days i.e., from 28.05.2005 to 14.08.2005, from CISF Unit HEP Uri, Jammu and Kashmir and reported at Group Headquarters, Chandigarh on 16.08.2005. It is stated that a departmental enquiry under Rule 36 of CISF Rules, 2001 was initiated against the husband of the Petitioner No.1 in which he was found guilty of overstaying his leave by 79 days. Vide Order dated 25.08.2006 bearing No. V-15014/GHCH/Disc/SPC/06/1186, the Disciplinary Authority, Group Commandant, CISF GP HQ, Chandigarh, awarded him the penalty of 'removal from service' with immediate effect.

4. Material on record further indicates that before his removal from service on 25.08.2006, the husband of the Petitioner No.1 was awarded 11 punishments for various indisciplinary activities, details of which are as under:-



S.No	Charges	Imposed Penalty	Disciplinary Authority
1.	AWL from Unit line from 05.05.1984 to 27.05.1984 for 23 days	'Censure' dated 24.08.1984	Commandant CISF Unit BCCL Jharia
2.	Absent from duty on 04.06.1986	'Censure' dated 30.09.1986	AC CISF Unit HEC Ranchi
3.	Not displayed kit layout & absent on 24.10.1991	'Withholding of one increment for one year without cumulative effect' on 23.11.1991	AC CISF Unit NTPC Unchhahar
4.	Absent from PT Parade on 25.03.1992	03 days' pay fine dated 29.05.1992	AC CISF Unit Unchhahar
5.	Deserted from RTC Sidhabari (W.B) w.e.f. 08.05.1995 to 06.07.1995 for 60 days	Withholding of one increment for one year without cumulative effect' on 17.10.1995	Commandant RTC Sidhabari
6.	Misbehaved unsocial behavior with HC/Dvr J.K.Singh and created nuisance in barrack on 30.11.1996	'Censure' dated 19.03.1997	AC RTC Sidhabari
7.	Relieved from course at	'07 days pay	AC CISF UNIT



	SHEP Salal but left for home town from 01.07.1997 to 11.07.1997	fine' dated 17.12.1997	TTPP TANDA
8.	OSL w.e.f. 20.11.1997 to 26.12.1997 for 36 days	'05 days pay fine' dated 03.03.1998	AC CISF UNIT TTPP TANDA
9.	OSL w.e.f. 09.03.1998 to 01.06.1998 for 85 days	' Removal from service on 02.12.1998. Later re-instated in service and the penalty was modified to 'reduction of four stages for 4 years with cumulative effect' vide DG NZ Order No. 2562 dated 25.02.1999	Gp. Commandant CISF Gp HQ. Allahabad & DIG NZ HQ , New Delhi
10	Disobedience of lawful order on 04.03.2001	'07 days pay fine' dated 30.01.2001	AC CISF PTPS PANKI
11	Disobedience of lawful order on 04.04.2005, 09.04.2005, 11.04.2005 and 15.04.2005	'With holding of one increment for 02 years without cumulative effect' on 12.05.2005	COMMANDANT CISF UNIT HEP URI.

5. A perusal of the record shows that husband of Petitioner No.1 was earlier removed from service *vide* Order dated 02.12.1998, passed by the Group commandant, CISF GP, HQ, Allahabad, for overstaying the leave by



85 days i.e., from 09.03.1998 to 01.06.1998. Against the said Order, husband of Petitioner No.1 preferred an Appeal, whereafter he was reinstated in service by modifying the punishment to the extent of reduction of pay by four stages in the time scale of pay for a period of four years.

6. Finally, on the 12th punishment, Petitioner was removed from services vide Order dated 25.08.2006 bearing No. V-15014/GHCH/Disc/SPC/06/1186 for overstaying the leave by 79 days from CISF Unit HEP Uri, Jammu and Kashmir. The said Order has not been modified or set aside by the Competent Authority.

7. It is stated that the husband of Petitioner No.1 passed away in 2018. After the death of her husband, Petitioner No.1 claimed compassionate allowance by filing various representations. Vide Order dated 14.11.2018 (*hereinafter referred to as "Impugned Order"*), the plea of the Petitioner seeking compassionate allowance has been rejected on the ground that since the husband of Petitioner was awarded the penalty of removal from service, his family is not entitled to compassionate allowance.

8. The Petitioners have challenged the Impugned Order in the present Writ Petition.

9. Learned Counsel for the Petitioner contends that the Petitioner has served in the CISF from 1992 to 2006 and Rule 41 of the Central Civil Services (Pension) Rules, 2021 (*hereinafter referred to as 'the CCS Pension Rules'*) permits grant of compassionate allowance in special circumstances. Learned Counsel for the Petitioner has also placed reliance on the Judgment of the Apex Court in Mahinder Dutt Sharma v. Union of India, (2014) 11 SCC 684, wherein the Apex Court has granted compassionate allowance to the Petitioner therein even though the concerned officer therein had been



dismissed from services.

10. Heard the learned Counsel for the Parties and perused the material on record.

11. Before going into the merits of the case, it is apposite to read Rule 41 of the CCS Pension Rules, which is as under:-

“41. Compassionate allowance.-

(1) A Government servant who is dismissed or removed from service shall forfeit his pension and gratuity: Provided that the authority competent to dismiss or remove him from service may, if the case is deserving of special consideration, sanction a compassionate allowance not exceeding two - thirds of pension or gratuity or both which would have been admissible to him if he had retired on superannuation pension.

(2) The competent authority shall, either on its own or after taking into consideration the representation of the Government servant, if any, examine whether any compassionate allowance is to be granted and take a decision in this regard in accordance with the proviso to sub-rule (1) not later than three months after the date of issue of the order imposing the penalty of dismissal or removal from service.

(3) The competent authority shall consider,-

(a) each case of dismissal and removal from service on its merit to decide whether the case deserves of special consideration for sanction of a compassionate allowance and, if so, the quantum thereof.

(b) the actual misconduct which occasioned the penalty of dismissal or removal from service and the kind of service rendered by the Government



servant.

(c) in exceptional circumstances, factors like family members dependent on the Government servant along with other relevant factors.

(4) Where an order imposing the penalty of dismissal or removal from service was issued before the date of commencement of these rules and the competent authority, at that time, did not examine or decide whether or not any compassionate allowance was to be granted in that case, that authority shall take a decision in this regard not later than six months from the date of commencement of these rules.

(5) No compassionate allowance shall be sanctioned after the expiry of the aforesaid period of six months, to a Government servant on whom a penalty of dismissal or removal from service was imposed before the date of commencement of these rules.

(6) A compassionate allowance sanctioned under the proviso to sub-rule (1) shall not be less than the amount of minimum pension under rule 44.”

12. A perusal of Rule 41(1) of the CCS Pension Rules indicate that a Government servant who is dismissed or removed from service shall forfeit his pension and gratuity, however, the said Rule gives power to the competent authority to grant compassionate allowance not exceeding two-thirds of pension or gratuity or both in special circumstances.

13. It is the case of the Petitioner No.1 that in view of the Apex Court's decision in Mahinder Dutt Sharma (supra), her husband is entitled for compassionate allowance.

14. It is pertinent to note that in the said Judgment, the officer therein was



granted 34 good entries, including 2 commendation rolls awarded by the Commissioner of Police, 4 commendation certificates awarded by the Additional Commissioner of Police and 28 commendation cards awarded by the Deputy Commissioner of Police, which entitled his family to be considered under the proviso to Rule 41 (1) of the CCS Pension Rules.

15. However, in the present case, the husband of Petitioner No.1 was awarded 11 punishments of various kinds due to his misconduct prior to his removal from the service *vide* Order dated 25.08.2006. Therefore, the said Judgment is inapplicable to the instant case due to the distinguishable facts.

16. Moreover, learned Counsel for the Petitioner has not been able to make out a case which would persuade this Court to request the competent authority to consider the case of the Petitioner on compassionate grounds.

17. Considering the matter in its entirety, this Court is of the view that there are no special circumstances in the instant case and the benefit of Rule 41(1) of the CCS Pension Rules cannot be given to Petitioner No.1.

18. In the absence of any special circumstance, this Court is not inclined to accept the prayer of the Petitioners.

19. Resultantly, the present Petition is dismissed along with the pending applications, if any.

SUBRAMONIUM PRASAD, J

VIMAL KUMAR YADAV, J

AUGUST 12, 2025

Rahul