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

+ **W.P.(C) 7765/2023**

EX. CT/DVR RAJ SINGHPetitioner
Through: **Mr. A.K. Trivedi, Adv.**

versus

UNION OF INDIA AND ORSRespondents
Through: **Mr. Mukul Singh, CGSC with**
Ms. Ira Singh and Mr. Aryan Dhaka, Advs.
Mr. Athurv, Insp., CRPF.

CORAM:

HON'BLE MR. JUSTICE C. HARI SHANKAR

HON'BLE MR. JUSTICE OM PRAKASH SHUKLA

JUDGMENT (ORAL)

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27.11.2025

C. HARI SHANKAR, J.

1. The petitioner was appointed as Constable Driver with the Central Reserve Police Forces¹ on 22 April 1993. While he was driving a service vehicle, an accident took place on 21 November 2002 resulting in the death of a lady.

2. The petitioner was issued a charge sheet under Rule 27 of the Central Reserve Police Force Act, 1949, on 20 January 2003 and subjected to disciplinary proceedings, culminating in his dismissal from service by order dated 23 August 2003. An appeal, preferred against the said order, was also dismissed on 10 February 2004. The matter was carried to this Court by way of WP (C) 7208/2007 which



was also dismissed on 1 October 2007. A review petition filed against that order was also dismissed by this Court on 28 March 2008. Thus, the dismissal of the petitioner from service attained finality.

3. A criminal case was also registered against the petitioner under Sections 279/337/304A of the Indian Penal Code, 1860. However, consequent on trial, the petitioner was acquitted by the learned Judicial Magistrate *vide* judgment dated 5 February 2007.

4. On the ground that, consequent on his dismissal, the petitioner was in impecunious circumstances, the petitioner applied to the respondents on 13 October 2022 for grant of compassionate allowance in terms of Rule 41² of the Central Civil Services (Pension) Rules, 1972.

² 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.

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5. The request was rejected by the respondents by a non-speaking order dated 16 December 2022. The petitioner challenged the said order before this Court by means of WP (C) 3500/2023 which was disposed of, by this Court by judgment dated 21 March 2023 directing the respondents to treat the writ petition as a representation and pass a fresh order.

6. The order which came to be passed by way of compliance with the said direction, on 3 May 2023, constitutes subject matter of challenge in the present writ petition.

7. A reading of the order dated 3 May 2023 reveals that the only ground on which the petitioner was found disentitled to compassionate allowance was that he had committed a very serious offence.

8. Aggrieved by the said decision, the petitioner has re-approached this Court by means of the present writ petition. We have heard Mr. A.K. Trivedi, learned Counsel for the petitioner and Mr. Mukul Singh, learned CGSC for the respondents at length.

9. The issue in controversy is fully covered by the judgment of the Supreme Court in *Mahinder Dutt Sharma v. Union of India*³. In the said decision, the Supreme Court has specifically discountenanced the argument that the seriousness of the charge against the employee can be a ground to reject compassionate allowance.



10. The Supreme Court has observed, in para 13 of the decision, that compassionate allowance is payable even to an employee who is dismissed from service. The very fact that an employee is dismissed from service indicates that he must have been guilty of serious misdemeanor. As such, the Supreme Court has held that seriousness of the allegation against an employee cannot be a ground to deny the employee compassionate allowance, which is basically intended to tide over the financial distress in which the employee and his family would be placed after the employee is uprooted from service.

11. In para 14 of the report, the Supreme Court has set out various circumstances, *albeit* illustratively, in which compassionate allowance can be denied. We deem it appropriate to reproduce, *in extenso*, paras 14 and 15 of ***Mahinder Dutt Sharma***, which read, thus:

“14. In our considered view, the determination of a claim based under Rule 41 of the Pension Rules, 1972 will necessarily have to be sieved through an evaluation based on a series of distinct considerations, some of which are illustratively being expressed hereunder:

14.1. (i) Was the act of the delinquent, which resulted in the infliction of the punishment of dismissal or removal from service, an act of moral turpitude? An act of moral turpitude is an act which has an inherent quality of baseness, vileness or depravity with respect to a concerned person’s duty towards another, or to the society in general. In criminal law, the phrase is used generally to describe a conduct which is contrary to community standards of justice, honesty and good morals. Any debauched, degenerate or evil behaviour would fall in this classification.

14.2. (ii) Was the act of the delinquent, which resulted in the infliction of the punishment of dismissal or removal from service, an act of dishonesty towards his employer? Such an action of dishonesty would emerge from a behaviour which is untrustworthy, deceitful and insincere, resulting in prejudice to the interest of the employer. This could emerge from an unscrupulous, untrustworthy



and crooked behaviour, which aims at cheating the employer. Such an act may or may not be aimed at personal gains. It may be aimed at benefiting a third party to the prejudice of the employer.

14.3. (iii) Was the act of the delinquent, which resulted in the infliction of the punishment of dismissal or removal from service, an act designed for personal gains from the employer? This would involve acts of corruption, fraud or personal profiteering, through impermissible means by misusing the responsibility bestowed in an employee by an employer. And would include acts of double-dealing or racketeering, or the like. Such an act may or may not be aimed at causing loss to the employer. The benefit of the delinquent could be at the peril and prejudice of a third party.

14.4. (iv) Was the act of the delinquent, which resulted in the infliction of the punishment of dismissal or removal from service, aimed at deliberately harming a third-party interest? Situations hereunder would emerge out of acts of disservice causing damage, loss, prejudice or even anguish to third parties, on account of misuse of the employee's authority to control, regulate or administer activities of third parties. Actions of dealing with similar issues differently, or in an iniquitous manner, by adopting double standards or by foul play, would fall in this category.

14.5. (v) Was the act of the delinquent, which resulted in the infliction of the punishment of dismissal or removal from service, otherwise unacceptable, for the conferment of the benefits flowing out of Rule 41 of the Pension Rules, 1972? Illustratively, any action which is considered as depraved, perverted, wicked, treacherous or the like, as would disentitle an employee for such compassionate consideration.

15. While evaluating the claim of a dismissed (or removed from service) employee, for the grant of compassionate allowance, the rule postulates a window for hope, "... if the case is deserving of special consideration...". Where the delinquency leading to punishment falls in one of the five classifications delineated in the foregoing paragraph, it would ordinarily disentitle an employee from such compassionate consideration. An employee who falls in any of the above five categories, would therefore ordinarily not be a deserving employee, for the grant of compassionate allowance. In a situation like this, the deserving special consideration, will have to be momentous. It is not possible to effectively define the term "deserving special consideration" used in Rule 41 of the Pension Rules, 1972. We shall therefore not endeavour any attempt in the said direction. Circumstances deserving special consideration, would ordinarily be unlimited, keeping in mind unlimited



variability of human environment. But surely where the delinquency levelled and proved against the punished employee, does not fall in the realm of misdemeanour illustratively categorised in the foregoing paragraph, it would be easier than otherwise, to extend such benefit to the punished employee, of course, subject to availability of factors of compassionate consideration.”

12. Though para 14 states that the circumstances enumerated in the said paragraph are illustrative, para 15 states that where the delinquency of the employee does not fall within one of the illustrations in para 14, it would be more appropriate to grant than to deny compassionate allowance to the employee.

13. We have also followed the decision in *Mahinder Dutt Sharma* in our decision in *Ajit Singh v. Union of India*⁴.

14. Mr. Mukul Singh, learned CGSC valiantly seeks to pigeonhole the present case into circumstance (ii) in para 14 of the *Mahinder Dutt Sharma*. He submits that the vehicle was being driven by the petitioner, instead of the person who should actually have driven the vehicle, and this would amount to dishonesty and would indicate the petitioner was untrustworthy by nature.

15. To our mind, the argument would amount to stretching the law in *Mahinder Dutt Sharma* beyond permissible limits. The Supreme Court has clearly explained, in para 14.2, what it intends to convey by conduct which is dishonest or untrustworthy. It has stated that such an action of dishonesty “would emerge from a behaviour which is untrustworthy, deceitful and insincere, resulting in prejudice to the



interest of the employer. This could emerge from an unscrupulous, untrustworthy and crooked behaviour, which aims at cheating the employer”. Such an act, it is clarified, may or may not be aimed at personal gains and may be aimed at benefitting a third party to the prejudice of the employer.

16. To our mind, the petitioner’s act in driving the vehicle, instead of the person who should have actually driven the vehicle, cannot fall within sub-para (ii) of para 14 of ***Mahinder Dutt Sharma***.

17. Mr. Mukul Singh also sought to place reliance on the judgment of a coordinate Bench of this Court in ***Sunil Kumar Singh v. Union of India***⁵. That was a case of financial misappropriation by the employee and was therefore found, in para 44 of the judgment, to be a clear case of moral turpitude and dishonesty aimed at personal gains.

18. That case, and this, are as alike as chalk and cheese.

19. Following the decision of the Supreme Court in ***Mahinder Dutt Sharma***, which has earlier been followed by us in ***Ajit Singh***, we are of the opinion that the petitioner is entitled to compassionate allowance. Accordingly, the impugned order dated 3 May 2023 by which the petitioner’s request for compassionate allowance has been rejected is quashed and set aside.

20. We hold that the petitioner is entitled to compassionate allowance. Let the payments to the petitioner in accordance with our



order passed today, be disbursed within a period of twelve weeks from today.

21. The writ petition stands allowed in the aforesaid terms.

C. HARI SHANKAR, J.

OM PRAKASH SHUKLA, J.

NOVEMBER 27, 2025/gunn