



2026:DHC:1215-DB



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IN THE HIGH COURT OF DELHI AT NEW DELHI*Date of Decision: 12.02.2026***+ W.P.(C) 1985/2026
SURESH CHAND**

.....Petitioner

Through: Mr. Shivanshu Bhardwaj, Adv.

versus

THE COMMISSIONER OF POLICE AND ORS

.....Respondents

Through: Mr. Gaurav Sharma, SPC along
with Ms. Manpreet Kour, Mr.
Sachin Singh, Adv.**CORAM:****HON'BLE MR. JUSTICE ANIL KSHETARPAL****HON'BLE MR. JUSTICE AMIT MAHAJAN****J U D G M E N T (O R A L)****ANIL KSHETARPAL, J.:**

1. The present Petition has been filed assailing the correctness of the order dated 28.10.2025 passed by the learned Central Administrative Tribunal, Principal Bench, New Delhi [hereinafter referred to as 'Tribunal'] in O.A. No.848/2022, while refusing to set aside the order dated 31.05.2021, declining compassionate allowance/pension as provided under Rule 41 of the Central Civil Services (Pension) Rules, 1972 [hereinafter referred to as 'CCS Rules'].

2. The Petitioner was working as a Constable, he along with other Constables, was assigned the duty of taking Under Trial Prisoner (UTP) in their custody for trial in Kanpur, Uttar Pradesh, wherein the UTP escaped. It was found that the UTP was a dangerous criminal and

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2026:DHC:1215-DB



for this lapse, a departmental inquiry was held in which the Petitioner along with other constables were found to have indulged in misconduct.

3. The Petitioner was dismissed from service on 15.09.2009 by the Disciplinary Authority, which was upheld in an Appeal by the Appellate Authority on 27.01.2010. The Petitioner unsuccessfully challenged the order dismissing him from service by filing an O.A. No.828/2010, W.P.(C) 1465/2012 and SLP No.9992/2013. Thereafter, he filed an application for grant of compassionate allowance/pension, which was rejected on 31.05.2021.

4. The Petitioner then filed O.A. No.848/2022, which was dismissed on specific grounds.

5. Rule 41 of the CCS Rules reads 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

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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."

It is evident that for grant of compassionate allowance/pension, the Applicant is required to satisfy that their case is justifiably distinct, deserving of special consideration.

6. Learned counsel representing the Petitioner submits that some of the other employees have been reinstated in service, who were also found to have indulged in the same misconduct.

7. This Court has considered the submissions and find that the compassionate allowance is payable while considering special consideration based on the representation given by such a claimant. Herein, the legality of his dismissal has already obtained finality and this Court cannot reopen the same.

8. In the absence of any special consideration, which is peculiar to the facts of the Petitioner's case, the Court is not expected to interfere.

9. Learned counsel representing the Petitioner relies upon the judgment passed by the Supreme Court in ***Mahinder Dutt Sharma v. Union of India***¹ which interprets Rule 41 of the CCS Rules, and does

¹ (2014) 11 SCC 684



2026:DHC:1215-DB



not as a *ratio decidendi* lays down that in absence of special consideration, a special allowance must be granted.

10. While exercising the power of judicial review, this Court is expected to interpret the provision of law keeping in view the object sought to be achieved by the statutory provision.

11. Hence, finding no merit, the present Petition is dismissed.

ANIL KSHETARPAL, J.

AMIT MAHAJAN, J.

FEBRUARY 12, 2026

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