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

+ **W.P.(C) 9304/2025**

VINOD KUMAR GARG (EX. JR. ENGINEER)Petitioner

Through: **Mr. V. K. Sharma and Ms. Sakshi,**
Advocates.

versus

BSES YAMUNA POWER LIMITED & ANR.Respondents

Through: **Mr. Sandeep Prabhakar, Senior**
Advocate with Mr. Vikas Mehta,
Advocates for R-1.

CORAM:
HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER
04.05.2026

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1. The Petitioner, a former Junior Engineer with BSES Yamuna Power Limited/Respondent No. 1, has invoked Article 226 of the Constitution to assail order dated 14th May, 2025 passed by Respondent No. 1, rejecting his request for compassionate allowance under Rule 41 of the Central Civil Services (Pension) Rules, 2021.¹ He further seeks directions for release of gratuity and leave encashment.

Factual Background

2. The Petitioner joined the erstwhile Delhi Electric Supply Undertaking in the late 1980s. He was appointed on regular basis as a Technical Helper on 3rd February, 1988 and was promoted from time to time. On 3rd August

¹ "CCS (Pension) Rules"



1994, an FIR was registered against him under the Prevention of Corruption Act, 1988,² alleging demand and acceptance of illegal gratification of INR 500/- from a consumer in relation to an electricity matter. The Petitioner was tried by the Special Judge and convicted under Sections 7 and 13 of the PC Act. By order dated 28th March 2002, he was sentenced to rigorous imprisonment for one and a half years on each count, along with fine. His criminal appeal was dismissed by this Court on 7th January, 2009. The Supreme Court, by judgment dated 27th November, 2019 in Criminal Appeal No. 1781/2009, affirmed the conviction and sentence.

3. The Supreme Court held that the demand of bribe, payment of INR 500/-, the trap and recovery stood proved, and that the contradictions relied upon by the Petitioner did not undermine the proof of demand, payment and recovery. The conviction thus rests on a final judicial determination that the Petitioner accepted a bribe in discharge of public duties.

4. Following the dismissal of the criminal appeal, Respondent No. 1 issued a show cause notice dated 23rd December, 2019 proposing the Petitioner's removal from service under Rule 19 of the CCS (CCA) Rules, 1965. On the same day, the Petitioner submitted a reply, not addressing the merits of the notice, but seeking an extension of time on the ground that he was required to surrender before the court on 24th December, 2019. The order of the learned Special Judge dated 24th December, 2019 records that the Petitioner surrendered before the court and was taken into custody to undergo the remaining sentence.

5. On 8th January, 2020, the competent authority imposed the penalty of removal from service under Rule 19 of the CCS (CCA) Rules, holding that

² "PCA Act"



the conduct leading to the Petitioner's conviction rendered his further retention in service undesirable and that the gravity of the offence warranted removal.

6. The Petitioner thereafter preferred a revision petition seeking conversion of the penalty of removal into compulsory retirement. By order dated 31st January 2025, the revisional authority rejected the revision.

7. Separately, the Petitioner submitted an application dated 23rd October, 2024, seeking compassionate allowance and gratuity under Rule 41 of CCS (Pension) Rules. He stated that he had served DESU/DVB/BYPL for more than three decades and that, apart from the 1994 incident, his service record was unblemished. He further highlighted his medical condition, submitting that he suffers from obstructive sleep apnea, diabetes, hypertension and chronic obstructive pulmonary disorder, and added that his wife is also seriously ill. He also emphasised his financial hardship, asserting that his sons have deserted him, that his GPF accumulation has been exhausted, and that he has no meaningful source of livelihood.

8. The competent authority rejected the application by the impugned order dated 14th May, 2025, to the following effect:

"WHEREAS Shri V.K. Garg, Ex- Jr. Engineer, E.No.40130376 was removed from service with effect from 08.01.2020 consequent upon dismissal of his Criminal Appeal by Hon'ble Supreme Court vide its judgment dated 27.11.2019 wherein Hon'ble Supreme Court upheld the conviction of Sh. V.K. Garg under section 7 and 13 of the Act and sentences as imposed in the matter related to his acceptance of bribe from a customer way back in 1994.

AND WHEREAS aggrieved by the order of the competent authority dated 08.01.2020, the aforesaid Shri Garg filed a revision petition under Rule-29 of the CCS(CCA) Rules, 1965, which was rejected by the competent authority vide Order No. HR/DC/Rev. Petition/VKG/2024-25 dated 31st January, 2025.



AND WHEREAS the aforementioned Shri V.K. Garg submitted an application dated 23.10.2024 requesting for grant of Compassionate Allowance under Rule 41 of CCS (Pension) Rules, 2021.

AND WHEREAS in his aforementioned application, Shri V.K. Garg submitted claiming, inter-alia that he has not enough means to survive in these difficult times as his both sons have deserted him after dismissal of his appeal by the Supreme Court. He and his wife are suffering from long term diseases and finding increasingly difficult to meet the cost of treatment. He also stated that he had served the company for more than three decades with complete dedication and honesty except for that unfortunate incident of 1994.

AND WHEREAS the “submissions” of Shri V.K. Garg have been carefully examined by the competent authority in detail on the basis of available documents, proposition of law and guiding principles contained in Government of India’s decisions, which, inter-alia, provide that in case the misconduct carries with it, the legitimate inference that the officer’s service has been dishonest, there can seldom be any good ground for grant of a compassionate allowance. Since conviction of Sh. V.K. Garg in a bribery case has been finally upheld by the Supreme Court, it leaves no ground in the present facts and circumstances for the competent authority to sanction a compassionate allowance.

The competent authority has also observed that it does not find existence of most exceptional circumstances in the case to sanction compassionate allowance to Shri V.K. Garg.

NOW, THEREFORE, the application of Shri V.K. Garg for grant of compassionate allowance under Rule-41 CCS (Pension) Rules, 2021 is hereby rejected by the competent authority.”

Submissions

9. Mr. V. K. Sharma, counsel for the Petitioner, contends that the impugned order proceeds on a misreading of Rule 41 of the CCS (Pension) Rules. This Rule vests discretion in the competent authority to grant compassionate allowance even in cases of dismissal or removal from service, where the case is found deserving of special consideration. The authority, therefore, could not have rejected the Petitioner’s claim solely on the ground of his conviction and consequent removal, without undertaking an assessment of his case on relevant considerations, including his past service record and humanitarian factors.



10. In support, reliance is placed on the Petitioner's long tenure of service, an appreciation letter issued by the Head (EHV), BYPL, and a safety certificate awarded during the 48th National Safety Week in March 2019. The appreciation letter records his dedication in attending to faulty cables and restoring twelve 66 kV faulty cables, while the safety certificate recognises him as a "Suraksha Mitra" for his contribution towards enhancing the safety culture at BYPL.

11. It is further urged that the incident is old, and that Respondent No. 1 itself permitted the Petitioner to remain in service for several years even after his conviction by the Trial Court. The Petitioner also relies on his medical condition, the illness of his wife, the absence of any regular source of income, and the alleged desertion by his sons. According to the Petitioner, these circumstances bring his case within the compassionate ambit of Rule

12. The Petitioner further seeks to draw parity with one K.L. Gandhi, Ex-Section Officer, Ministry of Labour & Employment, and relies upon his case as a precedent in support of his claim for grant of compassionate allowance under Rule 41.

13. On the other hand, Mr. Sandeep Prabhakar, Senior Counsel for Respondent No. 1, submits that compassionate allowance is not a vested right; it is an exception to the rule that dismissal or removal entails forfeiture of pension and gratuity. The Petitioner was convicted of corruption, and the conviction has attained finality up to the Supreme Court. The misconduct attributed to the Petitioner involves dishonesty, personal gain and misuse of public office. Reliance is placed on the judgement of the Supreme Court in



Mahinder Dutt Sharma v. Union of India,³ to submit that such misconduct ordinarily disentitles an employee from compassionate allowance. Respondent No. 1 also points to the Petitioner's delay in approaching the authority and submits that he has not established any legally compelling exceptional circumstance warranting indulgence.

Issues

14. The following issues arise for consideration:

- (i) Whether the impugned order dated 14th May, 2025 suffers from non-application of mind or any legal infirmity in the manner in which Rule 41 has been applied.
- (ii) Whether the Petitioner has made out a case “deserving of special consideration” within the meaning of Rule 41.
- (iii) Whether the Petitioner is entitled to any direction for release of gratuity or leave encashment.

Legal Framework

15. Rule 41 of the CCS (Pension) Rules provides that a government servant who is dismissed or removed from service forfeits his pension and gratuity. The proviso empowers the competent authority, if the case is “deserving of special consideration”, to sanction compassionate allowance not exceeding two-thirds of the pension or gratuity, or both, which would have been admissible if the employee had retired on superannuation pension. The Rule requires consideration of the actual misconduct which occasioned dismissal or removal, the kind of service rendered, and, in exceptional circumstances, family dependency and other relevant factors.

³ (2014) 11 SCC 684.



16. Rule 41 embodies two distinct propositions that must be carefully distinguished. First, dismissal or removal ordinarily entails forfeiture of pension and gratuity. Second, notwithstanding such forfeiture, a limited discretion is preserved in the competent authority to grant compassionate allowance where the case is “deserving of special consideration”. This discretion, though compassionate in its objective, is structured and not unbounded: it cannot be converted into a parallel pensionary regime for employees removed on account of serious misconduct; equally, it cannot be denied by a mechanical invocation of dismissal or removal, for it is precisely that contingency which triggers the applicability of Rule 41.

17. In ***Mahinder Dutt Sharma***, the Supreme Court identified certain categories of misconduct which ordinarily disentitle an employee from compassionate allowance, including acts involving moral turpitude; dishonesty towards the employer; acts designed for personal gain; deliberate harm to third party interests; and conduct of a depraved, perverted, wicked or treacherous character.

18. This Court, in ***Usha Devi v. Union of India***,⁴ relying on ***Mahinder Dutt Sharma***, emphasised that dismissal from service is not, by itself, an automatic bar to compassionate allowance. The nature and gravity of the misconduct is crucial, and compassionate allowance may be considered where the misconduct does not fall within the disqualifying categories identified by the Supreme Court.

Discussion and Reasons

19. The Petitioner’s case is not without a human element. He relies upon his advancing age, medical condition, loss of income and alleged



estrangement from his sons. These circumstances are not to be lightly disregarded. The scope of judicial review, however, remains confined: the question is whether the decision of the competent authority to decline compassionate allowance is vitiated by illegality, arbitrariness or perversity, and not whether this Court, if placed in its position, might have taken a more lenient view.

20. The nature of the misconduct assumes central significance in such a determination. This is not a case of mere negligence, unauthorised absence or an error of judgment. It concerns a proven act of bribery. The Petitioner was found to have demanded and accepted illegal gratification from a consumer in relation to an electricity matter, a finding that has attained finality up to the Supreme Court. The amount involved may be INR 500/-, but the gravity of the misconduct is not measured in monetary terms. The wrong lies in the conversion of a public duty into a source of private gain. For an ordinary consumer, even a small bribe represents the unlawful price for access to an essential public service.

21. The submission of counsel for the Petitioner that Rule 41 does not stand excluded merely because an employee has been removed from service is well-founded. The Rule itself proceeds on the premise that dismissal or removal has occurred. The impugned order, however, cannot be construed as rejecting the Petitioner's claim on that ground alone. It considers the principal pleas advanced by the Petitioner, namely, his alleged lack of means, the asserted desertion by his sons, the illness of both the Petitioner and his spouse, his length of service, and the contention that the incident of 1994 was a one-off lapse. The authority thereafter applies the Government

⁴ 2024 SCC OnLine Del 7116.



of India guidelines, which indicate that where the misconduct gives rise to a legitimate inference of dishonesty in service, the grant of compassionate allowance would seldom be justified. On that basis, it concludes that the case does not disclose circumstances of such weight as would warrant the exercise of discretion in favour of the Petitioner.

22. The attempt to characterise the incident as an “unfortunate” or isolated lapse is equally untenable. A proved demand and acceptance of a bribe by a public-facing employee is not a misfortune that befell him, but misconduct attributable to him. The passage of time does not dilute its legal significance.

23. The Petitioner’s long service and subsequent commendations, including the appreciation letter and safety certificate, are relevant features. They indicate that the Petitioner discharged his duties usefully and was, at certain points, recognised for his contribution. Such material can weigh in favour of an employee where the misconduct is not rooted in dishonesty. In the present case, however, the misconduct strikes at the core of probity in public service. Rule 41 expressly requires the authority to consider “the actual misconduct which occasioned the penalty of dismissal or removal from service” along with the kind of service rendered. Where the misconduct is one of bribery, the authority is entitled to accord greater weight to the nature and gravity of the offence than to subsequent commendations.

24. The contention that Respondent No. 1 did not immediately remove the Petitioner upon his conviction by the Trial Court also does not advance his case. For nearly eighteen years thereafter, the conviction remained under challenge before this Court and the Supreme Court. It attained finality only



upon the judgment of the Supreme Court dated 27th November, 2019, and the employer acted thereafter. During this period, the Petitioner continued in service, drawing salary and accruing service benefits. The decision of Respondent No. 1 to await the outcome of the criminal proceedings operated to the Petitioner's advantage. It cannot now be converted into a legal obligation to grant compassionate allowance once the conviction has attained finality.

25. The Court has also taken the medical material into account. The documents indicate that the Petitioner suffers from obstructive sleep apnea, diabetes, hypertension and knee-related issues, and that his spouse is undergoing psychiatric and neurological treatment. These are matters that called for consideration, and the impugned order notes that illness of both spouses was specifically pleaded. Rule 41 does not, however, lay down that ill-health or family hardship will, by themselves, displace a finding of corruption.

26. The plea that the Petitioner's sons have deserted him rests solely on his own assertion. Even assuming the same to be true, and acknowledging that such a situation would be distressing, it does not follow that the decision of the competent authority is rendered perverse on that ground alone. While the availability of other legal remedies for maintenance does not dilute the object of Rule 41, it underscores that the Rule is not intended to be the sole statutory response to every instance of familial neglect.

27. Some emphasis was placed on the language employed in the impugned order, which refers to "most exceptional circumstances", whereas Rule 41 speaks of cases "deserving of special consideration". This Court does not construe the use of such expression as introducing a higher



threshold than that contemplated by the Rule. The phrase has been used in the context of a conviction for bribery, a category of misconduct which, as noted by the Supreme Court, ordinarily disentitles an employee from the grant of compassionate allowance. In that backdrop, the authority has merely conveyed that the circumstances put forth by the Petitioner are insufficient to outweigh the gravity of the misconduct. The impugned order can therefore not be set aside merely on account of the use of a more emphatic expression, so long as the substance of the applicable legal standard has been correctly applied.

28. The reliance placed by the Petitioner on the case of K.L. Gandhi to claim parity, wherein compassionate allowance was granted despite conviction under the PC Act, does not advance the Petitioner's case any further. An order passed in the case of an individual employee does not constitute a binding precedent for the employer in other matters. The complete factual matrix of that case, including the nature of the service record, the financial and medical circumstances, and the considerations that weighed with the competent authority, is not before this Court. Rule 41 contemplates an individual assessment of each case, and Article 14 does not require a mechanical replication of a discretionary decision in all other situations.

29. Insofar as gratuity is concerned, Rule 41 proceeds on the basis that dismissal or removal from service entails forfeiture of pension and gratuity and permits consideration of both only within the limited framework of compassionate allowance, subject to the competent authority sanctioning such relief. Once the decision to decline compassionate allowance is upheld,



there remains no surviving basis for issuance of a mandamus directing release of gratuity.

30. The claim to leave encashment also cannot be accepted in its present form. The petition does not identify any specific statutory provision under which leave encashment would remain payable despite removal from service. In the absence of a clearly pleaded legal foundation, the Court cannot issue a general direction for release of leave encashment.

Conclusion

31. In view of the foregoing discussion, this Court is of the opinion that the conclusion that the Petitioner's case did not warrant a departure from the settled principle under Rule 41 cannot be characterised as irrational, perverse or legally unsustainable. The competent authority was, therefore, justified in concluding that the Petitioner's case is not "deserving of special consideration" within the meaning of Rule 41 of the CCS (Pension) Rules. Accordingly, this Court finds no ground to interfere with the impugned order dated 14th May, 2025.

32. Dismissed.

SANJEEV NARULA, J

MAY 4, 2026/hc