



2025:DHC:8802-DB



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

*Reserved on : 19 March 2025*  
*Pronounced on : 6 October 2025*

+ W.P.(C) 12101/2021

EX CT/GD AJIT SINGH .....Petitioner  
Through: Mr. A.K. Trivedi and Mr. Dhruv  
Kothari, Advs.  
versus

UNION OF INDIA AND ORS. ....Respondents  
Through: Mr. Bhagvan Swarup Shukla,  
CGSC with Mr. Sarvan Kumar, Mr. Satyam  
Singh and Ms. Priya Dwivedi, Advs. for  
UIO, Mr. Sourabh Bhushan, Legal Officer,  
RAF

**CORAM:**  
**HON'BLE MR. JUSTICE C. HARI SHANKAR**  
**HON'BLE MR. JUSTICE AJAY DIGPAUL**

% **JUDGMENT**  
**06.10.2025**

**C. HARI SHANKAR, J.**

1. The entitlement, of the petitioner, to compassionate allowance in terms of Rule 41<sup>1</sup> of the Central Civil Services (Pension) Rules, 1972<sup>2</sup>, is in question.

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<sup>1</sup> 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



## Facts

2. While he was serving as Sepoy in the CRPF<sup>3</sup>, the petitioner was issued a Memorandum on 7 November 2007, proposing to initiate departmental proceedings against him on the ground of having remained unauthorisedly absent from duty from 5:45 a.m. on 10 September 2007 to 11 a.m. on 19 September 2007. The proceedings culminated in Office Order dated 2 February 2008, which held the charge against the petitioner to have been proved beyond doubt and that he was, therefore, a deserter from his camp. Accordingly, in exercise of the powers conferred on him by Section 11(1) of the CRPF Act, 1995 read with Rule 27(a) of the CRPF Rules, 1955, the Commandant, 101<sup>st</sup> Battalion removed the petitioner from the CRPF with immediate effect.

3. The petitioner assailed the aforesaid order dated 2 February 2008, removing him from service, before this Court by way of WP (C) 11166/2009, which was dismissed on 4 December 2009. SLP (C)

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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.

<sup>2</sup> "the CCS (Pension) Rules" hereinafter

<sup>3</sup> Central Reserve Police Force



2097/2011, preferred by him against the said decision, was also dismissed by the Supreme Court on 14 February 2011.

4. On 15 February 2021, the petitioner applied for compassionate allowance in terms of Rule 41 of the CCS (Pension) Rules. The application was rejected by the respondents on 25 March 2021. The petitioner assailed the rejection before this Court by way of WP (C) 6703/2021, which was disposed of, by this Court, by order dated 19 July 2021, granting liberty to the petitioner to prefer a detailed representation to the respondent seeking compassionate allowance, and directing the respondent to pass a reasoned and speaking order thereon, keeping in mind the judgment of the Supreme Court in *Mahinder Dutt Sharma v Union of India*<sup>4</sup>.

5. As directed by this Court, the petitioner submitted a detailed representation, seeking compassionate allowance, on 29 July 2021. The representation stands rejected by the Commandant by a speaking order dated 18 September 2021. The reasoning in the said order is contained in paras 6 to 8, which read thus:

“6. Following parameters are laid down by the Supreme Court in Mahinder Dutt Sharma case:-

Sl. No.	Parameters laid down by the supreme court in Mahinder Dutt Sharma case.	Comments of this office.
1.	The said individual had rendered about 24 years of service prior to his Dismissal from service vide order dated	The petitioner was enlisted in CRPF as CT/GD on 29/09/1995 and rendered about 12 years, 04 months and 01

<sup>4</sup> (2014) 11 SCC 684



	17/05/1996.	day service prior to his dismissal from service wef. 02/02/2008 vide 101 RAF Office Order No.P.VIII-7/2007-EC-II-1-101 dated 02/02/2008.
2.	He was granted 34 good entries, including 02 Commendation Rolls awarded by Commissioner of Police, 04 Commendation Certificates awarded by the Additional Commissioner of Police and 28 Commendation cards awarded by the Deputy Commissioner of Police.	As per his service records and various was a available documents, petitioner habitual offender as well as liquor drinker. He was advised regularly verbally as well as in writing by officers to not commit such indiscipline act but he had never taken such advices seriously and kept on committing wilful mistakes again and again and remained indiscipline. When he did not reform himself after various verbal/written advices then he had been given little minor punishments. But even after then he kept on committing mistakes and remained undisciplined. Even then when he was suspended and a DE was going on, he deserted the camp without seeking prior permission from competent authority. Above mentioned facts clearly indicates that he may not be considered as an entire satisfactory workers of his superiors and subordinates.
3.	There is no denial that the appellant was involved during the period under consideration, in a criminal case, from which he was subsequently	No comment.



	acquitted.	
4.	One of his brothers died, and thereafter, his father and brothers wife also passed away.	No comment.
5.	His own wife was suffering from cancer.	No comment.
6.	All these tribulations led to his own ill-health, decipherable from the fact that he was suffering from Hypertension and diabetes.	He was suffering from mental depression and is still suffering from the disease is not valid. During departmental inquiry the Investigating officer and the Disciplinary officer analyzed his mental/physical health and the documents submitted by him. During the investigation, he was not found suffering from mental depression. The petitioner committed the crime of being fugitive from the camp without permission from any competent officer which is against the rules and order of the force.

7. The Hon'ble High Court Delhi has directed to respondents to consider the same and pass a Speaking Order taking into account the parameters laid down by the Supreme Court in Mahinder Dutt Sharma (Supra) within a period of 03 weeks from the receipt of aforesaid representation.

8. In compliance of Court order dated 19/07/21, DIG (Law) Dte Signal No.J.II-474/2021-Law-DA-I dated 26/07/2021, letter dated 13/08/2021, Signal No.J.II-474/2021-Law-DA-I dated 14/09/21 and IG, RAF letter No.R.XIII-04/2021-RAF-Adm-I(A.S) dated 15/09/2021, case in respect of above petitioner has been considered by the competent authority on the basis of available records and not found him eligible/deserving for grant of compassionate allowances i.e. pension and gratuity from the date of removal from service i.e. wef.02/02/2008 due to not fulfilling the parameters laid down by the Supreme Court in Mahinder Dutt Sharma case.”



6. Aggrieved thereby, the petitioner has instituted the present writ petition.

7. We have heard Mr. A.K. Trivedi, learned Counsel for the petitioner and Mr. Bhagwan Swarup Shukla, learned CGSC, at length.

8. Mr. Trivedi submits that the case is fully covered by the judgment of the Supreme Court in ***Mahinder Dutt Sharma***. He places reliance on paras 14 and 15 of the said decision, which sets out the principles regarding grant of compassionate allowance under Rule 41 of the CCS (Pension) Rules:

“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.”*

(Emphasis supplied)

9. Mr. Trivedi submits that, inasmuch as the circumstances of the present case do not attract any of the exigencies envisaged in sub-  
paras 14.1 to 14.5 of ***Mahinder Dutt Sharma***, the respondent erred in  
rejecting his client’s request for compassionate allowance.

10. Mr. Shukla, learned CGSC submits, in response, that  
compassionate allowance is not a right, as is apparent from the use of  
the word “may” in Rule 41 of the CCS (Pension) Rules. It is only  
where special circumstances exist that compassionate allowance can  
be granted. No such special circumstances exist in the present case.  
He submits that Rule 41 is not under challenge and that, as the  
impugned decision is in terms of the said Rule, no case for  
interference can be said to exist.

11. Mr. Shukla further submits that the decision in ***Mahinder Dutt  
Sharma*** is totally distinguishable on facts. He emphasises the fact that  
the petitioner was a deserter, and that this position stands affirmed up  
to the Supreme Court. A deserter, he submits, is not entitled to  
compassionate allowance.

### **Analysis**

12. On a holistic appreciation of the facts, in the light of the law  
that has developed in that regard, we are of the opinion that the





respondent is not justified in rejecting the petitioner's claim for compassionate allowance.

**13.** Rule 41 of the CCS (Pension) Rules provides for grant of compassionate allowance to a person who is dismissed or removed from service. The very fact that compassionate allowance is payable even to a person who stands dismissed from service, indicates that the entitlement to compassionate allowance cannot be decided on the basis of the severity of the charges against the concerned employee. This aspect stands underscored in para 13 of the decision in ***Mahinder Dutt Sharma***:

“13. We are of the considered view that the adjudication by the courts below with reference to Rule 41 of the Pension Rules, 1972 is clearly misdirected. The Rule itself contemplates payment of compassionate allowance to an employee who has been dismissed or removed from service. *Under the punishment rules, the above punishments are of the severest magnitude. These punishments can be inflicted only for an act of extreme wrongdoing. It is on account of such wrongdoing, that the employee concerned has already been subjected to the severest form of punishment. Sometimes even for being incorrigible. Despite that, the Rule contemplates sanction of a compassionate allowance of up to two-thirds of the pension or gratuity (or both), which would have been drawn by the punished employee if he had retired on compassionate pension. The entire consideration up to the present juncture, by the courts below, is directly or indirectly aimed at determining whether the delinquency committed by the appellant was sufficient and appropriate for the infliction of the punishment of dismissal from service. This determination is relevant for examining the veracity of the punishment order itself. That, however, is not the scope of the exercise contemplated in the present consideration. Insofar as the determination of the admissibility of the benefits contemplated under Rule 41 of the Pension Rules, 1972 is concerned, the same has to be by accepting that the delinquency committed by the punished employee was of a magnitude which is sufficient for the imposition of the most severe punishments. As in the present case, unauthorised and wilful absence of the appellant for a period of 320 days has resulted in the passing of the order of dismissal from service. The punishment inflicted on the appellant has been found*



*to be legitimate and genuine as also commensurate to the delinquency of the appellant. The issue now is the evaluation of claim of the punished employee under Rule 41 of the Pension Rules, 1972.”*

(Emphasis supplied)

**14.** Thus, a claim to compassionate allowance cannot be rejected solely on the ground that the concerned employee was guilty of serious or severe misconduct.

**15.** Unfortunately, Rule 41 of the CCS (Pension) Rules contains no guidelines on the basis of which the entitlement of an employee to compassionate allowance can be determined. It is for this reason that the Supreme Court has, in para 14 of *Mahinder Dutt Sharma*, provided indicative circumstances in which an employee would not be entitled to compassionate allowance. Though the Supreme Court has itself termed the circumstances as “illustrative”, the further clarification, in para 15 of the said decision, reading “surely where the delinquency levelled and proved against the punished employee, does not fall within 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”, would clearly justify grant of compassionate allowance to an employee who does not fall within any of the categories of cases envisaged in the sub-paras of para 14 of *Mahinder Dutt Sharma*.

**16.** The decision in *Usha Devi*



**16.1** This Court has had an occasion to deal with a challenge to the rejection of a claim for compassionate allowance, of an employee, albeit in a civil post, who was dismissed from service on the ground of remaining absent from duty for several days without authorisation, in *Usha Devi v Union of India*<sup>5</sup>. The petitioner in that case was the wife of the employee Pappu, who expired. The petitioner thereafter applied for compassionate allowance in terms of Rule 41 of the CCS (Pension) Rules. The claim was rejected on the ground that Pappu had been dismissed from service on the ground of remaining absent from duty without authorisation from 5 August 1991 to 21 August 1991, 27 April 1994 to 10 October 1994 and 3 July 1995 to 8 July 1996. Though Pappu, like the present petitioner, pleaded medical circumstances as necessitating his remaining absent, he was dismissed from service as a habitual absentee. Pappu's wife Usha Devi applied for compassionate allowance, which was rejected. She challenged the rejection before the Central Administrative Tribunal by way of OA 994/2019, which was dismissed. She approached this Court under Article 226 of the Constitution of India, assailing the dismissal of the OA.

**16.2** This Court considered the claim of Usha Devi in the light of the law declared in *Mahinder Dutt Sharma*. Additionally, the court also relied on the following passage, from the judgment of a coordinate Division Bench in *GNCTD v Raj Kumari*<sup>6</sup>:

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<sup>5</sup> 2024 SCC OnLine Del 7116

<sup>6</sup> 2019 SCC OnLine Del 7124



“5. From the above it would be seen that though there is no vested right in a dismissed or removed government servant to demand, as a matter of right, that he be granted Compassionate Allowance, and it lies within the discretion of the Government to grant the same upon examination of the facts of each case, the exercise of that discretion has to be based on relevant, germane and reasonable considerations. *Where the conduct of the government servant is not found to be dishonest, corrupt, or involving moral turpitude, and the conduct of the Government servant does not qualify as base; suffering from the depravity, or; dishonesty, and where he is not found to have acted with a design to make personal gains by involving himself in acts of corruption, fraud or personal profiteering, his claim may be favourably considered.*

6. In the present case, since the conduct of the late husband of the respondent was not found to be of the kind which would attract rejection of the claim for Compassionate Allowance, the Tribunal has allowed the same. *No doubt, the respondent's husband was habituated to remain unauthorisedly absent. He suffered the consequence thereof as he was dismissed from service. There was no other allegation of corruption, or dishonesty or conduct involving moral turpitude made against him. The whole premise on which the Rule-41 is based, is that the Government is empowered, coupled with the duty to act fairly in the matter of grant of Compassionate Allowance, to the dismissed or removed employee. The rejection of the claim for Compassionate Allowance in the present case is solely based on the habituated unauthorized absence of the respondent's husband. That is not a reason good enough to deny Compassionate Allowance as the case is not of a kind elaborated in **Mahinder Dutt Sharma**.*”

(Emphasis supplied)

**16.3** This Court, in decision in **Usha Devi**, expressed its entire agreement with the principle, enunciated in **Raj Kumari**, that “where the conduct of the government servant is not found to be dishonest, corrupt, or involving moral turpitude, and the conduct of the Government servant does not qualify as base; suffering from the depravity, or; dishonesty, and where he is not found to have acted with a design to make personal gains by involving himself in acts of corruption, fraud or personal profiteering, his claim may be favourably



considered”, and that, once the employee had already suffered dismissal from service on account of remaining absent from duty without due authorisation, that sin stood expiated and could no longer be regarded as a relevant consideration while assessing the case of the employee for grant of compassionate allowance.

17. Mr. Shukla sought to submit that, as a deserter, the petitioner was not entitled to compassionate allowance. We have to bear in mind the fact that the total absence of the petitioner, from duty, was for 10 days. For this cardinal sin, the petitioner already stands removed from service. The case, in our view, clearly merits favourable consideration, in the light of the law declared in *Mahinder Dutt Sharma*, as followed by us in *Usha Devi*.

18. Clearly, the case of the petitioner cannot be said to fall within any of the circumstances envisaged by the Supreme Court in para 14 of its decision in *Mahinder Dutt Sharma*. It cannot be said that the misconduct committed by the petitioner, by remaining unauthorisedly absent from duty for 10 days, is an act of moral turpitude, or dishonesty towards the respondent, or for obtaining personal gains from the respondent, or aimed deliberately harming a third-party interest, or an act which is depraved, perverted, wicked or treacherous. The impugned decision dated 18 September 2021 observes, against the petitioner, that he was a habitual drunkard, who had been warned in the past and had deserted the camp of the respondent for 10 days without seeking prior permission. This, according to the impugned decision, was “against the rules and orders of the force” and indicated that the petitioner could “not be considered as an entirely satisfactory



workers of his superiors and subordinates”. To our mind, these findings do not bring the case of the petitioner within the circumstances envisaged in the various sub-paras of para 14 of *Mahinder Dutt Sharma*. Even if one were to treat the said circumstances as illustrative, the case of the petitioner cannot even be remotely likened to the cases which would fall thereunder.

19. Clearly, therefore, the impugned decision dated 18 September 2021 cannot be sustained on facts or in law.

20. We have cogitated on whether to remand the matter to the respondent for fresh consideration. We are not inclined to do so, for three reasons.

21. Firstly, while we are aware that, in the prayer clause in the writ petition, the petitioner has prayed for a direction to the respondent to reconsider his claim sympathetically and on humanitarian grounds, nonetheless, we are exercising Article 226 jurisdiction, in which equity and justice fundamentally inhere. While deciding on the order that we should pass, while exercising jurisdiction under Article 226, we have to be guided by the ultimate and eventual goal of doing substantial justice, which is our primordial and preambular constitutional objective.

22. Secondly, it is now seven years since the petitioner was removed from service. He has knocked on the doors of this Court thrice, and has approached the Supreme Court once. Having already suffered removal from service, and having litigated, thereafter, for



seven years, and as we feel that the case of the petitioner merits favourable consideration in the light of the law declared by the Supreme Court in *Mahinder Dutt Sharma*, we are not inclined to subject the petitioner to any further travails, for obtaining compassionate allowance.

**23.** Thirdly, the ground for rejecting the petitioner's claim now stands laid bare before us, by the impugned order dated 18 September 2021. The impugned order dated 18 September 2021 is self-contained, insofar as the justification for denying the petitioner's claim for compassionate allowance is concerned. The counter-affidavit filed by the respondent before us, too, does not disclose any circumstance, beyond those noted in the impugned order dated 18 September 2021, for rejecting the petitioner's claim. Mr. Shukla, too, has not adverted to any other such circumstance.

**24.** Tested on the anvil of the principles enunciated in *Mahinder Dutt Sharma*, and following our earlier decisions in *Raj Kumari* and *Usha Devi*, we are inclined to hold that the petitioner is entitled to compassionate allowance.

## **Conclusion**

**25.** Accordingly, the impugned order dated 18 September 2021, and the decision, therein, to reject the petitioner's claim for compassionate allowance, is quashed and set aside. The petitioner is held to be entitled to payment of compassionate allowance, in accordance with law.





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**26.** The respondent is, therefore, directed to disburse, to the petitioner, compassionate allowance, as per his entitlement and in terms of Rule 41 of the CCS (Pension) Rules, within a period of six weeks from today. Failure to do so shall entail interest at the rate of 9% per annum till the date of payment.

**27.** The writ petition accordingly succeeds and is allowed, with no orders as to costs.

**C. HARI SHANKAR, J.**

**AJAY DIGPAUL, J.**

**OCTOBER 06, 2025/AR**