
(2018) 07 CAT CK 0120

In the Central Administrative Tribunal

Case No : Original Application No. 2315 Of 2017

Ct. Ishwar Singh

APPELLANT

Vs

. Govt. Of NCT Delhi And Ors

RESPONDENT

Date of Decision : 09-07-2018

Acts Referred:

Central Civil Services (Pension) Rules, 1972 — Rule 41

Citation : (2018) 07 CAT CK 0120

Hon'ble Judges : S.N. Terdal, J

Bench : Single Bench

Advocate : Neelima Rathore, U. Srivastava, Amit Anand

Final Decision : Allowed

Judgement

1. Heard Ms. Neelima Rathore, counsel for the applicant and Shri Amit Anand, counsel for the respondents, and perused the pleadings and all the documents produced by both the parties.

2. The relevant facts of this case are that the applicant was removed from service for being absent from duty after a departmental enquiry on 08.09.1997. Thereafter almost after 19 years in 2016, he made a representation for compassionate allowance under Rule 41 of the CCS (Pension) Rules, 1972. He also filed OA No.4075/2016 before this Tribunal and on the directions of this Tribunal, the competent authority after completing the required formality granted him compassionate allowance. But, however, the compassionate allowance was granted to him w.e.f. 05.04.2017. This application has been filed seeking a direction that the said compassionate allowance be directed to be granted with effect from the date of removal of the applicant from service under Order dated 08.09.1997.

3. The counsel for the respondents vehemently contended that it is the prerogative of the competent authority to grant the compassionate allowance even after several years after the date of the removal and he also submitted that

the applicant has filed the representation requesting the grant of compassionate allowance only in 2016 and on this ground, he supported the impugned order.

4. From the perusal of Rule 41 under which the competent authority is empowered to grant compassionate allowance, it does not contain any provision regarding the preponement of the date of grant of compassionate allowance though it gave discrimination to grant or not to grant compassionate allowance to the competent authority. Vide Government of India, Ministry of Finance O.M.No.F.14(3)-E V(A)/76 dated 23.04.1997 a clarification was issued by the Government to the effect that compassionate allowance is one of the various kinds of pension enumerated in the C.C.S. (Pension) Rules, 1972. The pension is payable from the date of retirement of a Government servant. The payment of pension cannot be postponed even for a month. In view of the same, the contention of the counsel for the respondents is not sustainable.

5. The counsel for applicant in support of her contention brought to my notice a judgment passed by the Hon'ble High Court of Delhi on 26.08.2010 in Writ Petition (Civil) No. 2556/2010 titled Ex.L/NK Mahabir Prasad Vs. UOI & Ors.

6. In view of the above, the OA is allowed. The respondents are directed to pay the compassionate allowance from the date of removal of the applicant from service. They are directed to pay within a period of four months from the date of receipt of certified copy of this order. No order as to costs.