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Central Administrative Tribunal
Principal Bench

OA No.1050/2002

New Delhi this the 4th day of April 2003

Hon'ble Shri Justice V.S. Aggarwal, Chairman
Hon'ble Shri V.K. Majotra, Member (A)

Bishamber Dayal
S/o late Shri Parbhati Ram,
r/o V. Naya Gaon, P.O. Bahadur Garh
Distt. Jhajjar,
Haryana PIN-124507.

-Applicant
(By Advocate: Shri R.K. Gupta)

Versus

1. Jt. Commissioner of Police
(Southern Range)
Police Head Quarter,
I.P. Estate, New Delhi
2. Dy. Commissioner of Police
(West District)
New Delhi.
3. S.H.O.
Police Station Patel Nagar,
New Delhi.

-Respondents
(By Advocate: Mrs. Sumedha Sharma)

ORDER (Oral)

Hon'ble Shri Justice V.S. Aggarwal, Chairman

Applicant was a Head Constable in Delhi Police. Disciplinary proceedings had been initiated against him and the disciplinary authority had imposed a penalty of dismissal from service. He preferred an appeal and the appellate authority on 10.4.2001 modified the penalty which reads as under:-

"I reduce the punishment to forfeiture of three years approved service entailing reduction in his pay by three stages from Rs.4135/- p.m. to Rs.3880/- p.m. for a period of three years. He will not earn his increment of pay during the period of reduction and it will have the effect of postponing his future increment of pay. The period from the date of the dismissal order when the appellant was not on duty be

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treated as period not spent on duty. However, it may be counted towards his qualifying service. His absence period is treated as not spent on duty. The period from the date of issue of this order to the date of joining of duty may be treated as leave of the kind due".

2. Learned counsel for the applicant relies upon a decision of the Delhi High Court in the case of Shakti Singh Vs. Union of India & Others Civil Writ Petition No.2368/2000 decided on 17.9.2002 to contend that the punishment awarded cannot be sustained in the facts of the present case.

3. In the case of Shakti Singh (supra), Delhi High Court construed Rule 8(d)(ii) of the Delhi Police (Punishment and Appeal) Rules, 1980 and thereupon while dealing with like the present controversy held:-

"Pursuant to and/or in furtherance of the said Rules, either reduction in pay may be directed or increment or increments, which may again either permanent or temporary in nature be directed to the deferred. Both orders cannot be passed together.

Rule 8(d)(ii) of the said Rules is a penal provision. It, therefore, must be strictly construed.

The words of the statute, as is well known, shall be understood in their ordinary or popular sense. Sentences are required to be construed according to their grammatical meaning. Rule of interpretation may be taken recourse to, unless the plain language used gives rise to an absurdity or unless there is something in the context or in the object of the statute to suggest the contrary".

4. Identical would be the position in the present case wherein in terms of Rule 8(d)(ii) either the punishment of reduction in pay or deferment of

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increment or increments permanently or temporarily can only be sustained. Both orders cannot be passed together.

5. Resultantly, keeping in view the ratio in the decision in the case of Shakti Singh (supra), we allow the present application and quash the order of the appellate authority. It is directed that appellate authority may in accordance with law pass a fresh speaking order on the appeal of the applicant.

V.K.Majotra
(V.K.Majotra)
Member (A)

V.S. Aggarwal
(V.S. Aggarwal)
Chairman

cc.