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Central Administrative Tribunal, Principal Bench

Original Application No. 752 of 2002

New Delhi, this the 30th day of October, 2002

Hon'ble Mr. Justice V.S. Aggarwal, Chairman
Hon'ble Mr. S.A.T. Rizvi, Member (A)

HC Azad Singh, No. 316 NW
Distt. North West,
Delhi

....Applicant

(By Advocate: Shri Arun Bhardwaj)

Versus

1. Commissioner of Police,
PHQ, IP Estate,
New Delhi.

2. Add. Commissioner of Police (AP)
N.P.L., Kingsway Camp,
New Delhi

3. Deputy Commissioner of Police,
III Bn., DAP
N.P.L., Kingsway Camp,
New Delhi

....Respondents

(By Advocate: Shri Ajay Gupta)

O R D E R (ORAL)

By Justice V.S. Aggarwal, Chairman

Departmental proceedings were held against the applicant. It becomes unnecessary for us to recite all the detailed facts for the reason that the matter is liable to be remitted to the appellate authority namely Additional Commissioner of Police. Suffice to say that the disciplinary authority (Deputy Commissioner of Police), III Bn., DAP, Delhi had imposed a punishment on the applicant of reducing his rank to the substantive post of Constable for a period of three years. The suspension period was directed to be treated as not spent on duty. The applicant preferred an appeal. The Additional Commissioner of Police, on 12.10.98, had modified the order of the disciplinary authority and operative part of the same

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reads:

"Therefore taking lenient view I modify, the final order issued by the disciplinary authority and award the penalty of forfeiture of three years approved service permanently to the appellant for a period of three years entailing reduction in his pay from Rs.4220/- P.M. to Rs.3965/- P.M. in the time scale of pay Rs.3200-85-4900 with immediate effect. He will not earn increments of pay during the period of reduction and on the expiry of this period the reduction will have the effect of postponing his future increments of pay. The suspension period of the appellant is decided as period not spent on duty for all intents and purposes."

2. Though many other pleas were raised before us but during the course of submissions, learned counsel for the applicant relied upon a Division Bench decision of the Delhi High Court in the case of Shakti Singh vs. Union of India & ors. in C.W.P. No.2368/2000 decided on 17.9.2002. In the case of Shakti Singh (supra) referred to above, the petitioner was an Inspector and punishment order recited that his pay is reduced by five stages in the time scale of pay for a period of five years. It was further directed that he will not earn increments of pay during the period of reduction and on the expiry of this period, the reduction will have the effect of postponing his future increments of pay. The Delhi High Court held that the said order imposed two punishments which are not permissible in law. The said order accordingly was quashed and matter was remitted for imposition of punishment in terms of the said judgement.

3. Identical is the position in the present case. We have already referred to the order passed by the

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appellate authority. Keeping in view the ratio decidendi in the case of Shakti Singh (supra), we allow the present application and quash the order of the appellate authority. The matter is remitted to the appellate authority for passing a fresh order keeping in view what has been observed above particularly the decision in the case of Shakti Singh (supra). Needless to emphasise that the applicant would be at liberty to take all legal and factual pleas available in law.


(S.A.T. Rizvi)

Member(A)


(V.S. Aggarwal)
Chairman

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