

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.2887/2002

New Delhi, dated this the 8th day of April, 2003

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

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Const. Parveen Kumar  
Village Kharidahiya  
Post Office Badhana, Dt. Sonapat .. Applicant  
(Shri Ashwani Bhardwaj, Advocate)

versus

1. Commissioner of Police  
Police Hqrs., IP Estate, New Delhi  
2. Addl. Commissioner of Police  
Armed Police, New Delhi  
3. Dy. Commissioner of Police  
IIIrd Bn DAP, Police Hqrs. New Delhi  
4. Rampat Singh  
Assistant Commissioner of Police  
EO, IIIrd Bn DAP, Police Hqrs.  
IP Estate, New Delhi .. Respondents  
(Mrs. Sumedha Sharma, Advocate)

ORDER(oral)

Shri Justice V.S.Aggarwal

The applicant Shri Parveen Kumar is a constable in Delhi Police. The disciplinary authority on 27th July, 2001 imposed the following penalty on the applicant.

"Therefore, I, Naresh Kumar, Dy. Commissioner of Police, III Bn. DAP, Delhi do hereby order that one year approved service of Constable Praveen Kumar, No.2539/DAP is forfeited permanently for a period of one year entailing reduction from Rs.3275/- to Rs.32000/- p.m. in the pay scale of Rs.3050-75-3950-80/4590 with immediate effect. It is further ordered that he will not earn increment of pay during the period of reduction and on expiry of the reduction period, the reduction will have effect on postponing his future increments of pay."

His appeal in this regard had been dismissed by the appellate authority.

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2. By virtue of the present application, applicant assails the orders passed by disciplinary as well as appellate authority. On behalf of the applicant, it has been stated that order passed by the disciplinary authority violates Rule 8(d)(iii) of the Delhi Police (Punishment & Appeal) Rules, 1980 as the penalty imposed amounts to dual punishment. (5)

3. The Delhi Court in the case of Shakti Singh Vs. UOI in CWP No.2368/2000 decided on 17th September, 2000 while dealing with Rule 8(d)(ii) of the Rules referred to above has gone into this controversy and has held as under:

"Rule 8(d)(ii) of the said Rules is disjunctive in nature. It employs the word 'or' and not 'and'.

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 be 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.

Keeping in view the aforementioned basis principles in mind, the said rule is required to be interpreted."


4. Identical is the position herein. Therefore, we hold that the ratio of the decision in the case of Shakti Singh (supra) would be clearly applicable in the present case also as the punishment awarded to the applicant amounts to dual penalty. On this short ground alone, we quash the impugned orders and remit the case to the


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disciplinary authority to pass fresh orders keeping in view the observations made above. Nothing said herein shall be taken as an expression of opinion on any other pleas raised in this application.

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5. Subject to the aforesaid, OA is disposed of.

  
(S.K. Malhotra)  
Member(A)

  
(V.S. Aggarwal)  
Chairman

/gtv/