

Central Administrative Tribunal, Principal Bench

Original Application No. 1905 of 2002

New Delhi, this the 30th day of January, 2003

Hon'ble Mr. Justice V.S. Aggarwal, Chairman  
Hon'ble Mr. Shankar Prasad, Member (A)

Raj Pal  
Head Constable of Delhi Police  
(PIS No. 28820202)  
R/o House No. 243,  
V & P.O. : Pooth Kalan, Delhi-41

....Applicant

(By Advocate: Shri Vimal Rathi, proxy for Shri Anil Singal)

Versus

1. Commissioner of Police,  
Police Head Quarters,  
I.P. Estate, New Delhi.
2. Joint Commissioner of Police,  
Operations, P H Q,  
I.P. Estate, New Delhi.
3. DCP (FRRO)  
Through Comm. of Police,  
Police Head Quarters,  
I.P. Estate, New Delhi.

....Respondents

(By Advocate: Shri Ajesh Luthra, proxy for Shri Harvir Singh)

O R D E R (ORAL)

By Justice V.S. Aggarwal, Chairman

Applicant is a Head Constable in Delhi Police. As a result of departmental proceedings that were initiated against him, the disciplinary authority on 11.10.2001, had imposed the following penalty on the applicant:

"I, therefore, hereby order to award the punishment of forfeiture of three years approved service temporarily to HC Raj Pal No. 193/F by reducing his pay from Rs. 4220/- p.m. to R. 3965/- p.m. in the time scale of pay for a period of three years with immediate effect. He will not earn increment of pay during the period of reduction and that on the expiry of this period, the reduction will not have the effect of postponing his future increments of pay. His suspension period from 9.3.2001 to 9.8.2001 is also decided as period not spent on duty

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for all intents and purposes."

The appeal preferred by the applicant was dismissed.

2. By the virtue of the present application, the applicant seeks quashing of the said orders.

3. Learned counsel for the applicant had drawn our attention towards the decision of the Delhi High Court in the case of Shakti Singh vs. Union of India & ors. (Civil Writ No. 2368/2000) decided on 17.9.2002. The Delhi High Court was construing rule 8(d)(ii) of Delhi Police (Punishment and Appeal) Rules. It was held in the case of Shakti Singh (supra) that rule 8 (d) of the rules provide that approved service may be forfeited permanently or temporarily for a specified period. Such forfeiture of approved service may be -

- (i) for purposes of promotion or seniority which can only be permanent;
- (ii) entailing reduction of pay; and
- (iii) deferment of an increment or increments permanently or temporarily.

4. Thereupon the Delhi High Court held that 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 and both the orders could not be passed together. In the present case, when examined on the touch-stone of the decision rendered by the Delhi High Court in the case of Shakti Singh (supra), it is patent that both the orders have been passed which could

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not have been passed together. Resultantly, the impugned orders on that count cannot be sustained.

5. Accordingly we do not express our opinion on the other contentions of the applicant but quash the impugned orders.

6. We direct that the disciplinary authority may, if deemed appropriate, pass a fresh order from the stage the penalty was imposed, in accordance with law.

*Shankar Prasad*

(Shankar Prasad)  
Member (A)

/dkm/

*V.S. Aggarwal*

(V.S. Aggarwal)  
Chairman