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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. No.1387 of 2002

New Delhi, this the 20th day of February, 2003

Hon'ble Shri Justice V.S. Aggarwal, Chairman
Hon'ble Shri A.P. Nagrath, Member (A)

Constable Chand Ram No.2600/DAP
S/o Shri Hardev Singh,
R/o H.No.447, Village & P.O. - Pooth Kalan,
Delhi-41.

....Applicant

(By Advocate : Shri Sachin Chauhan)

Versus

1. Union of India
through its Secretary,
Ministry of Home Affairs,
North Block, New Delhi.
2. Commissioner of Police, Delhi,
Police Headquarters, I.P. Estate,
M.S.O. Building,
New Delhi.
3. Sr. Addl. Commissioner of Police,
AP & T,
Police Headquarters, I.P. Estate,
M.S.O. Building, New Delhi.
4. Dy. Commissioner of Police,
7th Bn. D.A.P. Kingsway Camp,
Delhi.

....Respondents

(By Advocate : Shri Ashwani Bhardwaj, leaned proxy
counsel for Mrs.P.K. Gupta)

ORDER (ORAL)

By Shri Justice V.S. Aggarwal, Chairman :

The applicant is a Constable in the Delhi Police. The disciplinary proceedings had been initiated against him on the assertions that he along with other three persons forcibly entered in the clinic of Smt. Neena Singhal at 8.00 PM on 26.8.1993. They have carried iron rods. They threatened Smt. Neena Singhal with dire consequences and started smashing her belongings in the clinic. When some patients, who were waiting for their turn in the clinic and one Shri Vijay Kumar, objected to it, they



also attacked to them. During scuffle one Shri S.K. Gupta sustained injuries on his person. The case with respect to offence punishable under Sections 452/506/323/34 IPC was registered against the applicant and others.

2. Acting on the findings of the Enquiry Officer, who had written the fact that the charges stood proved, the disciplinary authority had imposed the following punishment:-

".... I, therefore, forfeit his two years approval service (Temporarily) for a period of two years for a period of one year entailing reduction in his pay from the stage of Rs.1110/- P.M. to Rs.1070/- P.M. He will not earn any increment of pay during the period of reduction and that on the expiry of the period of reduction will not have the effect postponing his future increments of pay. His suspension period n.e.f.33.9.93 to 11.12.1994 is treated as period not spent on duty. He will not draw anything else except he was drawn on subsistence allowance."

3. In appeal, the appellate authority had issued a fresh show-cause notice and, therefore, enhanced the punishment, which reads as under:-

"... The proposed punishment is as such confirmed and Const. Chand Ram No.8484/DAP hereby awarded the punishment if forfeited f his five years approved service permanently for a period of five years a entailing reduction in his for a period of 5 years entailing reduction in his pay. The pay of Const. Chand Ram No.8484/DAP is reduced by five stages from Rs.1110/- to 1010/- in time scale of pay for a period of 5 years with immediate effect. He will not earn increment of pay during the period and not on the expiry of this period, the reduction will have the effect of

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postponing his future increments of pay. His suspension period i.e. 3.9.1993 to 11.12.1994 is treated as not spent on duty. He will not draw anything else except he was drawing subsistence allowance."

4. The applicant assails both the orders passed by the disciplinary authority as well as the appellate authority.

5. Without dwelling into these questions, learned counsel has drawn our attention to the decision rendered by the High Court of Judicature at New Delhi in the case of Shakti Singh Vs. Union of India and Ors. in Civil Writ Petition No.2368/2000 decided on 17.9.2002. The Delhi High Court was considering the Rule 8 (d) (ii) of the Delhi Police (Punishment & Appeal) Rules, 1980 pertaining to forfeiture of approved service. The Delhi High Court held as under:-

"Rule 8(d)(ii) of the said Rules is disjunctive in nature. It employ 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.

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

6. In other words, in the present case also, same flaw crept in the orders passed by the disciplinary authority as well as the appellate authority, namely, that while the punishment of forfeiture of five years approved service has been awarded to the applicant, there is a further entailing reduction in his pay. He has not to even earn increment for this period. As per this order, it will have the effect of dual punishment in terms of the decision of the High Court in the case of Shakti Singh (supra).

7. Resultantly, we quash the orders dated 18.1.1995 (Annexure A-1) and 11.10.1995 (Annexure A-2) and remit the case back to the disciplinary authority, who may, if any, pick up the loose threads and pass a fresh order from the stage the punishment was imposed on the applicant in accordance with law.

8. It is made clear that we are not expressing any opinion on the other aspects of the matter.

9. Subject to aforesaid, OA is disposed of.

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(A.P. Nagrath)

Member (A)

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(V.S. Aggarwal)
Chairman

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