

Central Administrative Tribunal
Principal Bench

OA No.2681/2002

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New Delhi this the 24th day of April 2003

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

1. SI Chander Parkash
R/o V&PO Mandola,
Distt. Ghaziabad. (U.P.)

-Applicant

(By Advocate: Shri Arun Bhardwaj)

Versus

1. Union of India
Through Commissioner of Police
Police Head Quarter,
I.P. Estate, New Delhi

2. Addl. Commissioner of Police
Security,
Police Heaquarter, I.P. Estate,
New Delhi.

3. Addl. Deputy Commissioner of Police
Security,
New Delhi.

-Respondents

(By Advocate: Shri Ajesh Luthra)

ORDER (Oral)

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

Applicant had faced a departmental enquiry and the Additional Commissioner of Police (Security) imposed the following penalty on the applicant:-

"Therefore, I Paldan, Addl.DCP/Security, New Delhi, hereby order/award to SI(Min.) Chander Prakash No.D-378 and HC(Min.) Nanak Chand No.55/Sec. a punishment of forfeiture of 4 years approved service permanently for a period of 4 years. Accordingly, their pay is reduced by 4 stages from Rs.7425/-PM to Rs.6725/- PM and Rs.4050/- PM to Rs.3710/- PM respectively in time scale of pay for a period of 4 years with immediate effect. They will not earn increment of pay during the period of reduction and on the expiry of this period, the reduction will have the effect of postponing of their future increments of pay. Their suspension period from 23.2.2000 to 6.4.2000 and 21.2.2000 to 6.4.2000 respectively is ordered to be treated as period not spent on duty for all intents and purposes".

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2. The orders so passed referred to above are being assailed.

3. At the outset, we deem it necessary to mention that certain pleas have been raised at the Bar pertaining to the merits of the matter and the vires of Rule-16 (1) of the Delhi Police (Punishment and Appeal) Rules, 1980 but since for the reasons to be recorded hereinafter, we are remitting the matter back to the disciplinary authority, we are not expressing ourselves on the said contentions and it would be open to the applicant, if necessary, subsequently to raise those pleas.

4. Our attention has been drawn to the decision referred by the Delhi High Court in the case of **Shakti Singh Vs. Union of India & Ors.** in Civil Writ Petition No.2368/2000 decided on 17.9.2002. The Delhi High Court was interpreting Rule 8(d)(ii) of the Delhi Police (Punishment and Appeal) Rules, 1980 and in this regard held:

"Rule 8(d) of the said Rules provides that approved service may be forfeited permanently or temporarily for a specified period as mentioned therein. Such a forfeiture of approved service may be (i) for purposes of promotion or seniority, which can only be permanent in nature; (ii) entailing reduction of pay; and/or (iii) deferment of an increment or increments permanently or temporarily.

It is not in dispute that reason of the order impugned before the Tribunal, the services of the petitioner were forfeited as a result whereof reduction in his pay was directed. Thus, his pay was further reduced by five stages from Rs.2525/- to Rs.2100/- in the time scale of pay for a period of five years. Yet again, it was directed that he would not earn increments of pay during the period of reduction and on the expiry of the said

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period such reduction would have the effect of postponing his future increments of pay.

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 furtherence 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".

5. Identical would be the position herein and necessarily therefore the order imposing penalty on the applicant in this regard, cannot be sustained. In addition to that learned counsel for the applicant had vehemently urged that the enquiry officer had exonerated the applicant. Thereafter a Note of disagreement had been sent by the disciplinary authority. This fact is not being disputed. However, it is contended that while imposing the penalty and considering the other witnesses, the defence evidence of the applicant had been ignored as is apparent from the impugned order, copy of which is at Annexure A-2.

6. The said position is correct. Therefore, it is further directed that the disciplinary authority must consider and pass a speaking order, taking note of the defence witnesses. We hasten to add that it is for

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the disciplinary authority to consider and pass the appropriate order as deemed fit in accordance with law.

7. Resultantly, we allow the present application and quash the impugned orders. It is directed that disciplinary authority, from the stage the order dated 14.1.2002 was passed, would consider the aforesaid findings and pass a fresh order.

8. The applicant has since superannuated and, therefore, it would be in the fitness of things that decision in this regard is taken by the disciplinary authority within three months from the date of receipt of a said copy of this order. No costs.

V.K.Majotra

(V.K.Majotra)
Member (A)

V.S. Aggarwal

(V.S. Aggarwal)
Chairman

cc.