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Central Administrative Tribunal
Principal Bench

O.A. No. 1383 of 2002

New Delhi, this the 24th February, 2003

HON'BLE MR. JUSTICE V.S. AGGARWAL, CHAIRMAN
HON'BLE MR. V.K. Majotra, MEMBER (A)

Constable Kaptan Singh No.1900/PCR,
presently posted at P.S.Tuglak Road,
New Delhi District,
New Delhi
S/o Shri Mool Chand,
R/o Gel Pura Road, Near
Gautam Vidya Mandir School,
Bharatpur,
Rajasthan

...Applicant.

(By Advocate: Shri Rajeev Kumar)

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,
MSO Building,
New Delhi.
3. Addl. Commissioner of Police,
Operational,
Police Headquarters,
I.P.Estate,
MSO Building,
New Delhi.
4. Addl. Dy. Commissioner of Police,
Police Headquarters,
I.P.Estate,
MSO Building,
New Delhi.

.... Respondents.

(By Advocate: Shri Rishi Prakash)

ORDER (Oral)

Justice V.S. Aggarwal

The applicant is a Constable in Delhi Police. The departmental proceedings had been initiated against him on the ground that he was in drunken condition on 16.2.96. After the enquiry had been conducted, the

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disciplinary authority had imposed the following penalty:

"Therefore, the basis of D.E proceedings it is hereby ordered that the pay of Constable Kaptan Singh No.1900/PCR is reduced by two stage from Rs.1130 to Rs.1090/- in the time scale of permanently for a period of two years with immediate effect. He will not earn his annual increments of pay during this period and after expiry of this period the reduction will have the effect of postponing his future increments of pay. His suspension period from 1.3.96 to 27.5.96 is decided as not spent on duty for all in tents & purposes."

2. The appeal of the applicant has since been dismissed on 5.5.97.

3. The applicant had preferred O.A No.428/99 and this Tribunal on 26.2.2001 had disposed of the same with the following directions:

"Respondent No.1 i.e. the Commissioner of Police to dispose of the applicant's revision petition dated 10.6.97, which has been filed against the appellate authority's order dated 5.5.97 received by him on 29.5.97 by a reasoned and speaking order, without reference to any delay as none has occurred. This shall be done within two months from the date of the receipt of the copy of this order with intimation to the applicant. No order as to costs."

4. Thereupon, an order was passed on 23.5.2001 dismissing the revision petition. Hence the fresh application in this regard.

5. Without dwelling into other pleas, the learned

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counsel for the applicant asserted that the penalty imposed is in violation of Rule 8 (d) (ii) of the Delhi Police (Punishment & Appeal) Rules, 1980. He relied upon the case of Shakti Singh Vs. Union of India & Ors. (CWP No.2368/2000) decided on 17.9.2002 by the Delhi High Court. In Shakti Singh's case, the penalty awarded was -

"The charge levelled against Inspr. Shakti Singh, No.D-1/231 is fully proved..... Thus, the pay of Inspr. Shakti Singh, No.D-1/231 is reduced by five stages from Rs.2525/- to Rs.2100/- in the time scale of pay for a period of five years. He 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 his future increments of pay."

6. The Delhi High Court, while interpreting Rule 8(d)(ii) of the above Rules held that this tantamounts to a dual punishment. Identical is the position herein. The penalty awarded to the applicant, as is apparent from the impugned order and has been reproduced above, would tantamount to dual penalty. Consequently, we have no hesitation in quashing the impugned order.

7. Therefore, following the ratio decidendi in the decision rendered in the case of Shakti Singh (supra), we quash the impugned order and direct that the disciplinary authority may, in accordance with law, pass appropriate fresh orders in this regard. We make it clear that nothing said herein is an expression of opinion on the merits of the matter nor we are going

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into the other controversies that had been agitated for the purposes of the present application. O.A. is disposed of.

V. K. Majotra

(V. K. Majotra)
Member (A)

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V. S. Aggarwal

(V. S. Aggarwal)
Chairman