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Central Administrative Tribunal, Principal Bench

Original Application No.820 of 2002

New Delhi, this the 1st day of November, 2002

Hon'ble Mr. Justice V.S. Aggarwal, Chairman
Hon'ble Mr. S.A.T. Rizvi, Member (A)

S.S. Shokeen,
Staff Car Driver,
H.No.355, Village & P.O. Dichaun Kalan,
New Delhi

....Applicant

(By Advocate: Shri Arun Bhardwaj)

Versus

1. Union of India
Through Secretary,
Ministry of Information & Technology,
Electronics Niketan,
6, C.G.O. Complex,
New Delhi.
2. Joint Secretary
Ministry of Information & Technology,
Electronics Niketan,
6, C.G.O. Complex,
New Delhi.
3. Deputy Director,
Ministry of Information & Technology,
Electronics Niketan,
6, C.G.O. Complex,
New Delhi.

....Respondents

(By Advocate: Shri R.N. Singh)

O R D E R (ORAL)

By Justice V.S. Aggarwal, Chairman

The applicant (S.S. Shokeen) was a Staff Car Driver. Disciplinary proceedings were held against him on the ground that he took the staff car out of office without permission and without any official work on 30.12.99 and kept it in his custody from 9.30AM to 7.00PM. It was further alleged against him that he unauthorizedly used the vehicle and drove the same about 91 Kms. on the said date. He made a wrong entry in the log book for usage of the said Government vehicle.

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2. The enquiry was held and thereafter the disciplinary authority imposed the following punishment:

"NOW THEREFORE, the undersigned in exercise of the powers conferred by Rule 15(4) of the Central Civil Services (Classification, Control and Appeal) Rules, 1965, hereby impose major penalty of reduction to a lower stage of pay at Rs.3050/- in the time-scale of pay of Rs.3050-75-3950-80-4590 for a period of two years from the date of issue of this order and during the period of this reduction Shri Shokeen will not earn increments of pay. It is further stated that on the expiry of this period, the reduction will have the effect of postponing the future increments of his pay. I also order to revoke the suspension of Shri S.S. Shokeen, Staff Car Driver with immediate effect. The period of suspension from 16.2.2000 to till the date the same is revoked shall not be treated as duty for any purpose.

3. The applicant had preferred an appeal. The appellate authority found the appeal to be without merit. Resultantly it was dismissed.

4. Learned counsel for the applicant has submitted -
(a) Shri Vasudeva was an important witness. The applicant had taken the car with his permission and he had been dropped by the Presenting Officer without valid reasons;
(b) enquiry report was not given to the applicant and that has caused prejudice to him; and (c) that the punishment awarded is contrary to the decision of the Delhi High Court in the case of Shakti Singh vs. Union of India & ors. in C.W.P.No.2368/2000 decided on 17.9.2002.

5. So far as the first contention of the applicant that Shri Vasudeva has wrongly been dropped without

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consent, we find that the said argument has to be stated to be rejected. This is for the reason that this plea had been taken in appeal by the applicant and the appellate authority while dismissing the appeal, had considered the said fact and rejected the same. The reason given was that it was the prerogative of the Presenting Officer to examine the witness and further the charge was not that the applicant was on leave or not. In that view of the matter, the reasons so recorded, do not require a judicial review because once they are meritorious, this Tribunal will not sit as a court of further appeal in this regard. The contention in this regard, therefore, must fail and is rejected.

6. As regards the second argument that report of the enquiry officer has not been provided to the applicant, once again we are constrained to observe that though there is a specific denial but it appears that plea offered necessarily must be taken to be false. This is apparent from representation submitted by the applicant copy of which is Annexure A-12 dated 15.6.2001. Perusal of it clearly shows that the applicant submitted his representation against the enquiry officer's report and thereafter reference to the effect that enquiry officer has wrongly concluded certain facts. It supports the respondents' view and the plea that the report of the enquiry officer had been provided to the applicant.

7. As regards the last contention, the same must be held to be put forward with a substance. We need not delve

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further into this controversy because of the decision in the case of Shakti Singh (supra). In the case of Shakti Singh, the order imposing the punishment on the said person was that his pay was reduced by five stages in the time scale of pay for a period of five years. He was not to earn increments of pay during the period of reduction and on the expiry of the said period, the reduction was to have the effect of postponing his future increments of pay. The Delhi High Court had accepted the petition holding in paragraph 15 of the judgement that in this process, both the punishments have been awarded which could not have been done.

8. The snag however is that in the case of Shakti Singh, the Delhi High Court was dealing with Rule 8(d)(ii) of Delhi Police (Punishment and Appeal) Rules, 1980 which reads as under:

"8(d)(ii) Forfeiture of approved service
- Approved service may be forfeited permanently or temporarily for a specified period as under:-

(i) For purposes of promotion or seniority (Permanent only).

(ii) Entailing reduction in pay or deferment of an increment or increments (permanently or temporarily)."

9. The punishment has been awarded to the applicant before us under the CCS (CCA) Rules, 1965. Herein the provision reads -

"Rule 11 (v) save as provided for in Clause (iii) (a), reduction to a lower stage in the time-scale of pay for a specified period, with further directions as to whether or not the Government servant will earn increments of pay





during the period of such reduction and whether on the expiry of such period, the reduction will or will not have the effect of postponing the future increments of his pay;

(vi) reduction to lower time-scale of pay, grade, post or Service which shall ordinarily be a bar to the promotion of the Government servant to the time-scale of pay, grade, post or Service from which he was reduced, with or without further directions regarding conditions of restoration to the grade or post or Service from which the Government servant was reduced and his seniority and pay on such restoration to that grade, post or Service;"

10. On comparison of the two, it is obvious that the nature of punishment that can be awarded under the Delhi Police (Punishment and Appeal) Rules is totally different that in Central Civil Service (Classification, Control and Appeal) Rules. Therefore the logic and reasoning in the case of Shakti Singh will have no application when punishments are awarded under CCS (CCA) Rules because the word OR occurred under Rule 8(d)(ii) of Delhi Police (Punishment and Appeal) Rules. We find no ^{mention} ~~place~~ with respect to similar punishment under the CCS (CCA) Rules. Herein the punishment as such, could have been awarded and thus question of urging that it is a double punishment, will have no application. The case of Shakti Singh must be held to be distinguishable.

11. Resultantly the present application must be held to be without merit. It must fail and is dismissed.


(S.A.T. Rizvi)
Member (A)


(V.S. Aggarwal)
Chairman