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Central Administrative Tribunal, Principal Bench

Original Application No.2307 of 2002

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

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

Const. Sombir Singh
S/o Niyadar Singh
R/o Vill & P.O. Sauhra,
Tehsil Jhajjar,
Distt. Jhajjar

.... Applicant

(By Advocate: Shri Arun Bhardwaj)

Versus

1. Union of India
Through Commissioner of Police,
I.P. Estate, I.T.O.
Delhi
2. Dy. Commissioner of Police,
Police Control Room
Delhi.
3. Addl. Commissioner of Police,
PCR and Communication,
Delhi.

.... Respondents

(By Advocate: Shri Ajay Gupta)

O R D E R (ORAL)

By Justice V.S. Aggarwal, Chairman

The disciplinary authority (Deputy Commissioner of Police), Police Control Room vide the order of 19.2.2001, had imposed the following penalty on the applicant:

"Hence, I am inclined to impose such type of penalty which will act as a deterrent to others. Hence, ASI Surjeet Singh, No.120/D is reduced to the lower post of Head Const. until he is found fit, after a period of 5 years from the date of this order to be restored to the higher post of ASI, and the pay of Const. Sombir Singh, No.2959/PCR be reduced by 8 stages from Rs.3650/- p.m. to Rs.3050/- p.m. in the time scale of pay for a period of 8 years with immediate effect. It is further directed that Ct. Sombir Singh, No.2959/PCR will not earn increments of pay during the period of reduction and that on the expiry of this period, the reduction will have the effect of postponing his future increments of

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pay."

The appeal of the applicant has since been dismissed.

2. Learned counsel for the applicant contends that the penalty awarded is contrary to the provisions of Rule 8(d)(ii) of Delhi Police (Punishment and Appeal) Rules. In addition to that, certain other arguments have also been advanced regarding which no opinion at this stage is being expressed.

3. Taking up the plea of the learned counsel for the applicant pertaining to Rule 8(d)(ii) of the Rules referred to above, reliance is being placed on the decision in the case of Shakti Singh vs. Union of India (C.W.P.No.2368/2000) decided on 17.9.2002 wherein the Delhi High Court while construing the said rule, held:

"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.

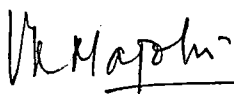
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Keeping in view the aforementioned basic principles in mind, the said rule is required to be interpreted."

4. Identical is the position herein and when the present case is examined in the light of the decision in the case of Shakti Singh (supra) referred to above, it is obvious that it would be a penalty awarded contrary to Rule 8(d)(ii) of the Rules referred to above.

5. Resultantly we quash the impugned order and remit the matter back to the Deputy Commissioner of Police who may, if so feels, pass a fresh order in accordance with law.

6. We are not expressing ourselves on any other controversy on the question involved.


(V.K. Majotra)
Member(A)


(V.S. Aggarwal)
Chairman

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