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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. No.382 OF 2002

New Delhi, this the 14th day of May, 2004

HON'BLE SHRI JUSTICE V.S. AGGARWAL, CHAIRMAN
HON'BLE SHRI S.A. SINGH, MEMBER (A)

Const. (Driver) Sri Pal No.4383/PCR
(PIS No.28893374) S/o Shri Mool Chand
Presently posted in Police Control Room
R/o Village Mahipal Pur/South West District,
New Delhi.Applicant
(By Advocate : Shri Arun Bhardwaj)

Versus

1. Union of India
Through Addl. Commr. of Police,
Police Control Room, Police Head Qrs.,
I.P. Estate, New Delhi.
2. Deputy Commissioner of Police of
Police Control Room, Police Head Qrs.,
I.P. Estate, New Delhi.
3. Shri Tej Ram, ACP Enquiry Officer,
Through DCP/H.Q. Police Head Qrs.,
I.P. Estate, New Delhi.

.....Respondents
(By Advocate : Shri Anurag Sharma for
Shri George Paracken)

ORDER (ORAL)

SHRI JUSTICE V.S. AGGARWAL:-

Earlier the present Original Application was dismissed by the Tribunal on 26.9.2002. Applicant preferred a Civil Writ Petition No.3648/2004 in the Delhi High Court and vide order dated 12.3.2004, the matter has been remitted back to this Tribunal by the High Court.

2. The applicant faced disciplinary proceedings alongwith others including Constable Karan Chand. The disciplinary authority had imposed the following penalty:-

"... There is no ground or jurisdiction available on record from representations

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given by the defaulters. "And, therefore, I Dr.M. Ponnaian IPS DCP/PCR, Delhi hereby order that the pay of HC Karam Chand, No.1013/PCR be reduced by 10 stages from Rs.4220/- p.m. to Rs.3370/- p.m. The pay of HC Lurku Oraon No.1460/PCR be reduced by 10 stages from Rs.4390/- p.m. to 3540/- p.m. and the pay of Ct. (Dvr.) Sri Pal, No.4383/PCR be reduced by 10 stages from Rs.3725/- p.m. to Rs.3050/- p.m. in their time scale of pay for a period of 10 years with immediate effect. It is further directed that they will not earn increment of pay during the period of reduction and that on the expiry of this period the reduction will have the effect of postponing their future increments of pay."

3. The appeal of the applicant had been dismissed.

4. Besides other pleas, it has been pointed that the penalty imposed violates 8(d)(ii) of Delhi Police (Punishment and Appeal) Rules, 1980 and in support of his claim, learned counsel for the applicant relies upon the decision rendered by the Delhi High Court in the case of Shakti Singh Vs. Union of India (C.W.P. No.2368/2000) decided on 17.9.2002 wherein while construing Rule 8(d)(ii) of the rules ibid, the Delhi High Court 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

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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.

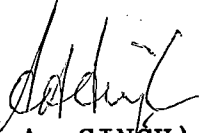
Keeping in view the aforementioned basic principles in mind, the said rule is required to be interpreted."

5. It is not in controversy that when the present matter is examined in the light of the decision of the Delhi High Court, the penalty imposed would be violative of Rule 8(d)(ii) of the rules referred to above.

6. Resultantly, we quash the orders passed by the disciplinary as well as appellate authorities directing the disciplinary authority to pass a fresh order in accordance with law from the stage the impugned order had been passed.

7. It is made clear that nothing said herein can be taken as an expression of opinion on the other contentions of the applicant.

8. Subject to aforesaid, the present OA is disposed of.


(S.A. SINGH)
MEMBER (A)


(V.S. AGGARWAL)
CHAIRMAN

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