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Central Administrative Tribunal, Principal Bench

Original Application No.489 of 2002

New Delhi, this the 3rd day of March, 2003

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

Sub Inspector Vinod Kumar Sharma

No. D-1823

R/o C-30, Delhi Citizen Group Housing Society,
Sector-13, Rohini,
Delhi-85

.... Applicant

(By Advocate: Shri Sachin Chauhan)

Versus

Union of India Through

1. Its Secretary
Ministry of Home Affairs,
North Block, New Delhi.

2. Commissioner of Police
Police Headquarters,
I.P.Estate, New Delhi.

3. Addl. Commissioner of Police,
Crime (W) Cell Nanak Pura,
New Delhi.

4. Dy. Commissioner of Police,
Crime Women Cell, Nanak Pura,
New Delhi.

.... Respondents

(By Advocate: Shri Ram Kawar Dhillon)

O R D E R (ORAL)

By Justice V.S. Aggarwal, Chairman

Applicant is a Sub-Inspector in Delhi Police. As a result of disciplinary proceedings that were initiated against him, the disciplinary authority on 13.3.2000, had imposed the following punishment on him:

"Keeping in view the above discussion, I take a lenient view, afford a chance to the SI to mend himself and hereby order to forfeit his 10 years approved service permanently. Therefore the pay of SI Vinod Kumar No.D/1823 is reduced by 10 stages from Rs.1940/- to Rs.1640/- (initial stage)

reduction will have the effect of postponing his future increment of pay. He is re-instated from suspension with immediate effect. His suspension period from 12.12.90 to 12.3.2000 is decided as period not spent on duty."

2. In appeal, the punishment was enhanced but the Commissioner of Police on 29.6.2001, had set aside the order of the appellate authority and restored that of the disciplinary authority.

3. Learned counsel for the applicant, besides raising other pleas, contended that the punishment awarded is in violation of Rule 8(d)(ii) of Delhi Police (Punishment and Appeal) Rules, 1980 and contravenes the decision of 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.

4. In the case of Shakti Singh, while construing Rule 8(d)(ii) of the Rules referred to above, 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 popular sense. Sentences are required to

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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. When the matter in question is examined on the touch-stone of the decision of the Delhi High Court in the case of Shakti Singh (supra), it is patent that in the facts of the present case also, it will amount to dual punishment. As a necessary consequence, therefore, without expressing any opinion on the other controversies which could be agitated, on this short ground alone we allow the O.A. and quash the impugned orders. It is directed that the disciplinary authority may pick up the loose threads and from the stage where the order imposing the punishment was passed, in accordance with law pass a fresh order. Nothing said herein should be taken as an expression of opinion on the other questions.



(V.K. Majotra)
Member (A)

/dkm/



(V.S. Aggarwal)
Chairman