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Central Administrative Tribunal, Principal Bench

Original Application No.1869 of 2002

New Delhi, this the 29th day of July, 2003

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

H.C. Sukhbir Singh
(No.184/DAP), Now 236/DAP
1st Battalion, Near Police Line,
Kingsway Camp,
Delhi

.... Applicant

(By Advocate: Shri Mohit Madan, proxy for Mrs. Avnish
Ahlawat)

Versus

1. Govt. of NCT of Delhi through
Commissioner of Police Delhi
Police Headquarters,
M.S.O. Building, New Delhi
2. Deputy Commissioner of Police,
1st Bn. DAP, Kingsway Camp,
New Delhi
3. Additional Commissioner of Police,
Armed Police, Delhi

.... Respondents

(By Advocate: Shri Ajesh Luthra)

O R D E R (ORAL)

By Justice V.S. Aggarwal, Chairman

The applicant is a Head Constable in Delhi Police. In pursuance of the disciplinary proceedings, following penalty had been imposed upon him:

"Therefore, I, A.A. Siddiqui, D.C.P./1st Bn. DAP, Delhi award a punishment of forfeiture of 5 years approved service permanently for a period of 5 years to HC Sukhbir Singh, 236/DAP entailing proportionate reduction in his pay. He will not earn periodical increments 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. However, the intervening period from the date of dismissal i.e. 8.2.94 to the date of re-instatement in service 4.9.2000 is decided as not spent on duty. Hence the same is not being regularised in any manner. The intervening period i.e. from the date of his reinstatement from service (4.9.2000) to the date he joins his duty i.e. 6.9.2000 is treated as LKD."

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2. Learned counsel for the applicant, without touching any aspect of the other pleas, contended that the penalty imposed violates Rule 8(d)(ii) of Delhi Police (Punishment and Appeal) Rules.

3. Reliance is being placed on 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 wherein 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 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."

4. When the present matter is examined in the light of the decision of the Delhi High Court, it is obvious that the penalty imposed by the disciplinary authority would be violating the plain language of Rule 8(d)(ii) of the rules

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referred to above.

5. Resultantly, in the light of the decision in the case of Shakti Singh (supra), we quash the impugned orders and remit the matter back to the disciplinary authority with the direction to pass a fresh order from the stage the impugned order dated 12.10.2000, copy of which is Annexure 'A', had been passed. We make it clear that we are not expressing ourselves on the other pleas raised by the applicant.

S.K. Naik
(S.K. Naik)
Member(A).

V.S. Aggarwal

(V.S. Aggarwal)
Chairman.

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