

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. No.2637 of 2002

New Delhi, this the 20th day of May, 2003

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

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Phool Singh
Constable in Delhi Police
(FIS No.28880599)
R/o V & PO Gandura,
Tehsil : Laxman Garh,
Dist Alwar, Rajasthan.

...Applicant

(By Advocate : Shri Anil Singal)

Versus

1. Jt. Comm. of Police,
(New Delhi Range), PHQ,
IP Estate, New Delhi.
2. Dy. Comm. of Police,
New Delhi, Dist.
PS Parliament Street,
New Delhi.

....Respondents

(By Advocate : Shri Ajay Gupta)

ORDER (ORAL)

SHRI JUSTICE V.S. AGGARWAL, CHAIRMAN :

The applicant, who is a Constable in Delhi Police, along with others has faced disciplinary proceedings and the disciplinary authority, vide its order dated 29.9.1999, imposed the following punishments:-

"As such the pay of ASI is reduced by one stage from Rs.4400/- PM to 4300/- PM in the time scale of pay of Rs.4000-100-6000 for a period of one year from the date of issue of this order, the pay of Ct. Harminder Singh NO.1204/ND is reduced by one stage from Rs.3125/- PM to Rs.3050/- PM in the time scale of pay Rs.3050-75-3950-80-4590 is reduced by one stage of Rs.3125/- PM to Rs.3050/- PM in the time scale of pay of Rs.3050-75-3950-80-4590 for a period of one year from the date of issue of this order. They will not earn increment of pay during the period of reduction and on the expiry of this period; the reduction will have the effect of postponing of their future increment of pay. They have already been reinstated in service vide DD No.39 dt. 19.8.99 read with order No.5139-55/HAP/NDD dt. 20.8.99. The period of suspension of ASI Sube Singh

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No.3243/ND Ct. Harminder Singh No.1204/ND from 16.7.98 to 19.8.99 and Ct. Phool Singh No.1201/ND from 22.7.98 to 19.8.99 are also treated as not spent on duty. The period of dismissal from 8.5.92 to joining the department i.e. 16.7.98 by ASI Sube Singh and Ct. Harminder Singh and 22.7.98 Ct. Phool Singh are also decided as dies-non on the principles of 'No work no pay' contained in FR-17 (i)."

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2. The appeal preferred by the applicant has been dismissed. Hence, the present application seeking quashing of the impugned orders.

3. Learned counsel for applicant, without dwelling into the controversy, contends that the penalty imposed is in violation of Rule 8(d) (ii) of the Delhi Police (Punishment & Appeal) Rules, 1980. In support of his argument, he relies upon the decision of the Delhi High Court in Shakti Singh Vs. Union of India & Ors. (C.W.P. 2368/2000) decided on 17.9.2002. In the case of Shakti Singh, the Delhi High Court was considering Rule 8 (d) (ii) of the rules, referred to above and held :

"Rule 8(d) of the said Rules provides that approved service may be forfeited permanently or temporarily for a specified period as mentioned therein. Such a forfeiture of approved service may be (i) for purposes of promotion or seniority, which can only be permanent in nature; (ii) entailing reduction of pay; and/or (iii) deferment of an an increment or increments permanently or temporarily.

4. It is not in dispute that by reason of the order impugned before the Tribunal, the services of the petitioner were forfeited as a result whereof reduction in his pay was directed. Thus, his pay was further reduced by five stages from Rs.2525/- to Rs.2,100/- in the time scale of pay for a period of five years. Yet again, it was directed that he would not earn increments of pay during the period of reduction and on the expiry of the said period such reduction would have the effect of postponing his future increments of pay.

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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."

4. Identical is the position herein. When the matter in question is examined on the touchstone of the ratio of the decision of the Delhi High Court in the case of Shakti Singh (supra), which tantamount to imposing of dual punishment on the applicant, necessarily, therefore, on this technical ground, the application is allowed and the impugned orders are quashed. However, we make it clear that disciplinary authority, if deemed appropriate, from the stage imposing the penalty, may pass a fresh order in accordance with law.

5. Keeping this in view, we are not expressing ourselves on the other contentions raised in the OA.

(GOVINDAN S. TAMPI)
MEMBER (A)

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(V.S. AGGARWAL)
CHAIRMAN