

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

O.A.NO.2636/2002

Thursday, this the 22nd day of May, 2003

Hon'ble Shri Justice V.S. Aggarwal, Chairman
Hon'ble Shri Govindan S. Tampi, Member (A)

Bhagirath
Head Constable in Delhi Police
(PIS No.28820603)
r/o 5th Bn.DAP
Barrack No.15, Company 'B'
Kingsway Camp, Delhi

..Applicant

(By Advocate: Shri Anil Singal)

Versus

1. Jt. Commissioner of Police
(Southern Range) PHQ
IP Estate, New Delhi
2. DCP (West Dist.)
PS Rajouri Garden
New Delhi

..Respondents

(By Advocate: Shri Rishi Prakash)

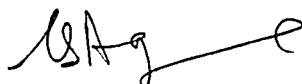
O R D E R (ORAL)

Shri Justice V.S. Aggarwal:

The applicant is a Head Constable. The disciplinary authority accepting the report of the inquiry officer had imposed the following penalty on the applicant:-

"Therefore, I, Kewal Singh, Dy. Commissioner of Police, West Distt., New Delhi hereby order to forfeit three year's approved service of H.C. Bhagirath, No.427/West permanently with immediate effect. Accordingly, his pay is reduced by three stages from Rs.4135/- to Rs.3880/- for a period of three years in the time scale of pay with immediate effect. During the period of reduction, he will not earn his increments of pay and after expiry of this period, the reduction will have effect of postponing his future increments of pay.

His suspension period from 9.1.2001 to 11.2.2001 is decided as period not spent on duty for all intents and purposes."



2. His appeal has also been dismissed.

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3. Learned counsel for applicant contends that the penalty imposed violates Rule 8 (d) (ii) of the Delhi Police (Punishment & Appeal) Rules, 1980 and in support of his arguments, learned counsel for applicant relies upon the decision rendered by the Delhi High Court in Shakti Singh vs. Union of India & Ors. (CWP-2368/2000) decided on 17.9.2002. The Delhi High Court while construing Rule 8(d)(ii), referred to above, 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 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.2100/- 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.

Rule 8(d)(ii) of the said Rules is disjunctive in nature. It employs 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.

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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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4. Identical is the position herein. Reading of the order reproduced above clearly shows that the punishment awarded is hit by the ratio deci dendi of the decision rendered in Shakti_Singh'case (supra).

5. Resultantly, we accept the application and quash the impugned orders. The disciplinary authority, if so advised, may from the stage the penalty was imposed pass fresh order in accordance with law.

6. Subject to aforesaid, OA is disposed of.

(Govindan S. Tampi)
Member (A)

/Sunit/

(V.S. Aggarwal)
Chairman