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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. No.1855 of 2002

New Delhi, this the 4th day of March, 2003

Hon'ble Shri Justice V.S. Aggarwal, Chairman
Hon'ble Shri A.P. Nagrath, Member (A)

Const. Charanjeet Singh
PIS No.28892828
R/o B-127, Fateh Nagar,
Tilak Nagar, New Delhi.

Presently posted in
PCR, South Zone,
New Delhi.

.....Applicant

(By Advocate : Shri Bhasker Bhardwaj for
Shri Anil Singal)

Versus

1. Commissioner of Police,
Police Head Quarters,
I.P. Estate, New Delhi.
2. D.C.P. Special Cell (SB),
PHQ, IP Estate, New Delhi.

.....Respondents

(By Advocate : Mrs. Jasmine Ahmed)

ORDER (ORAL)

By Shri Justice V.S. Aggarwal, Chairman :

By virtue of the present application, applicant - Constable Charanjeet Singh assails the orders passed by the disciplinary authority dated 20.7.1998 (Annexure A-2) and the appellate authority dated 17.7.2001 (Annexure A-3) vide which his appeal has been dismissed.

2. The disciplinary authority had imposed the following punishment on the applicant:-

.... I, therefore, award a penalty of forfeiture of 2 years approved service permanently upon Const. (Dvr.) Charanjeet Singh, No.363/SB. Accordingly the pay of Const.(Dvr.) Charanjeet Singh, No.363/SB



is reduced by two stages from Rs.3350/- p.m. to Rs.3200/- p.m. permanently in the time scale of pay for a period of 2 years. He will not earn increments of pay during the period of reduction and on the expiry of this period the reduction will not have the effect of postponing his future increments of pay. his absence period from 6.1.98 to 27.3.98 is decided as 'Dies Non' on the principle of "No Work No Pay." This penalty will take effect after the expiry of the penalty already awarded to him vide this office order No.7449-70/HAP-SB, dated 30.12.97."

3. Our attention has been drawn by the learned counsel for the applicant towards the decision of the by the High Court of Judicature at New Delhi in the case of Shakti Singh Vs. Union of India and Ors. in Civil Writ Petition No.2368/2000 decided on 17.9.2002. The Delhi High Court, while considering the Rule 8 (d) (ii) of the Delhi Police (Punishment & Appeal) Rules, 1980 pertaining to forfeiture of approved service, held as under:-

"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 Rule, 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.

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


4. Identical is the position herein because the ratio deci dendi of the decision in the case of Shakti Singh (supra) would be applicable. This tantamounts to dual punishment.

5. Resultantly, we quash the orders dated 20.7.1998 (Annexure A-2) and 17.7.2001 (Annexure A-3) and remit the case back to the disciplinary authority, who may, if any, pick up the loose threads and pass a fresh order from the stage the punishment was imposed on the applicant, in accordance with law.

6. It is made clear that we are not expressing any opinion on the other aspects of the matter.

7. Subject to aforesaid, OA is disposed of.


(A.P. Nagrath)
Member (A)


(V.S. Aggarwal)
Chairman

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