

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

OA 1531/1995

NEW DELHI THIS THE 13TH DAY OF MAY, 2011

**HON'BLE MR. G. GEORGE PARACKEN, MEMBER (J)
HON'BLE DR. VEENA CHHOTRAY, MEMBER (A)**

Prem Kishore Gupta (360/N), resident,
Of Quarter No.6, Police Station Narela,
Delhi presently working in Character
Roll Branch, North District, Delhi. ... Applicant.

(By Advocate :Shri S.K.Gupta)

Versus

1. Addl. Deputy Commissioner of Police,
North District, Delhi, P.S. Civil Line,
Delhi. ... Respondents.
2. Addl. Commissioner of Police
(Northern Range),
Delhi, Police Headquarters, I.P. Estate,
New Delhi-110002. ... Respondents.

(By Advocate : Shri Vijay Pandita)

Order(Oral)

Shri G.George Paracken:

The applicant's grievance is against the Annexure 'A' order dated 09.09.1993 of the disciplinary authority imposing upon him the punishment of reduction in his pay by four stages from Rs.1150/- p.m. to Rs.1050/- in the relevant time scale of pay for a period of four years with immediate effect which also contains further stipulations that (a) he will not earn increment of pay during the period of reduction, (ii) and on the expiry of said period, the reduction will have the effect of postponing his future increments of pay and (iii) the period for which he remained absent will be treated as 'leave of the kind due'. He is

also aggrieved by Annexure 'B' appellate authority's order dated 02.06.1994 by which his appeal against the aforesaid punishment order was rejected. The operative part of the aforesaid order of the disciplinary authority reads as under:

"Taking into account all facts and circumstances of the case I feel that he does not deserve any leniency. However, I tend to take a lenient view this time and order to reduce his pay by 4 stages from Rs.1150/- p.m. to Rs.1050/- in the time scale of pay for a period of four years with immediate effect. He 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 his future increments of pay. The period for which he remained absent is, however, decided as Leave kind due."

2. The allegation against the applicant was that he was unauthorisedly absent from duty for 760 days. Earlier, this O.A. was considered by a co-ordinate Bench of this Tribunal and allowed the same vide order dated 28.03.2000 holding that the case of the applicant was fully covered by the ratio of the decision of the Supreme

Court in **State of Punjab & Ors. Vs. Bakshish Singh**, 1998 (7) JT

142. The operative part of the said order is as under:

"4. We have gone carefully through the pleadings as well as the points urged by the applicant.

5. It is contended by the applicant that the period of absence having been treated by the competent authority as "leave of kind due", no punishment can be imposed as the period of unauthorized absence has been regularized. He therefore contends that the misconduct would not survive after the period of unauthorized absence was regularized. This point is squarely covered by the ratio of the judgment of the Supreme Court in State of Punjab & Ors. vs Bakshish Singh (1998 (7) JT 142). The Supreme Court has clearly held that when the period of unauthorized leave is regularized, the misconduct no longer survives and thereafter the delinquent could not be

2

validly punished for the same misconduct which no longer exists.

6. In the circumstances the impugned order is quashed. The OA is accordingly allowed. No costs."

3. The respondents carried the aforesaid order of this Tribunal before the Hon'ble High Court of Delhi vide WP (C) No. 6917/2000. As the Supreme Court has reconsidered the issue raised in Bakshish Singh's case (supra) in a subsequent judgment of Maan Singh Vs. Union of India & Ors. JT 2003 (2) SC 514, the High Court remitted the case back to the Tribunal for considering the other issues that the applicant may choose to raise.

4. Today when the matter was taken up for hearing, the learned counsel for the applicant Shri S.K. Gupta has confined his submission to the limited issue that this case is squarely covered by the judgment of the Hon'ble Delhi High Court (CWP No.2368 of 2000) in **Shakti Singh Vs. Union of India & Ors.** reported in 2002 (VIII) AD (Delhi) 529. The disciplinary authority has passed a similar order in the case of the petitioner therein also and same is reproduced as under:

"The charge levelled against Insp. Shakti Singh, No. D-1/231 is fully proved. Thus, the py of Insp. Shakti Singh, No. D-1/231 is reduced by five stages from Rs.2525/- to Rs.2100/- in the time scale of pay for a period of five years. He 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 his future increments of pay."

The Hon'ble Delhi High Court, on due consideration of Rule 8 (d) (ii) of the Delhi Police (Punishment and Appeal) Rules, 1989, came into conclusion that in terms of the aforesaid rules, the petitioners could



not have been inflicted with both the punishments, and, therefore, set aside the second part of the order whereby and whereunder his future increments had also been stopped permanently. The said rule reads as under:

"8. Principles for inflicting penalties.-

(d) Forfeiture of approved service.-

Approved service may be forfeited permanently or temporarily for a specified period as under:-

- (i) For purposes of promotion or seniority (Permanent only).
- (ii) Entailing reduction in pay or deferment of an increment or increments (permanently or temporarily).

5. The relevant part of the judgment of the High Court in Shakti Singh's case (supra) is also extracted herein which is as under:

"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.

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.

Rule 8(d)(ii) of the said Rules is a penal provision. It, therefore, must be strictly construed.

The words of 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.

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15. In this view of the matter, we are of the opinion that the petitioners herein could not have been inflicted with both the punishments.

We, therefore, set aside the second part of the order whereby and whereunder their future increments had also been stopped permanently."

6. Learned counsel for the respondents does not dispute the aforesaid contention of the learned counsel for the applicant that this case is fully covered by the judgment in **Shakti Singh's** case (supra).

7. In view of the above position, we quash and set aside the second part of the impugned order of the disciplinary authority dated 09.09.1993 whereby his future increments had been stopped permanently and remit this back to the disciplinary authority for passing the appropriate orders. The applicant will be entitled to all the consequential benefits.

8. OA is accordingly allowed partly. There is no order as to costs.

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 (Dr. Veena Chhotray)
 Member (A)

Paracken
 (G. George Paracken)
 Member (J)

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