

(26)

Central Administrative Tribunal, Principal Bench

Original Application No. 1802 of 1997

New Delhi, this the 18th day of May, 2004

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

Constable Harish Chander No. 4868/DAP
S/o Shri Horam Singh, aged about 38 years
presently posted at 5th Bn, DAP, H.No. 451
Gali No. 8, Monga Nagar, Karawal Nagar Road,
Delhi-94

....Applicant

(By Advocate: Shri Sachin Chauhan)

Versus

1. Union of India
through its Secretary,
Ministry of Home Affairs,
North Block, New Delhi
2. Commissioner of Police,
Police Head Quarters, I.P. Estate,
New Delhi
3. Sr. Addl. Commissioner of Police,
Planning and Implementation
Police Head Quarters, I.P. Estate,
New Delhi
4. Dy. Commissioner of Police,
F.R.R.O., Hans Bhawan,
New Delhi-2

....Respondents

(By Advocate: Ms. Pinky Anand with Shri Amit Sharma, proxy
for Ms. Geeta Luthra)

O R D E R (ORAL)

By Justice V.S. Aggarwal, Chairman

The applicant is a Constable in Delhi Police.
Disciplinary proceedings had been initiated against him.
The Deputy Commissioner of Police (F.R.R.O.) on 29.8.95 had imposed the following penalty on the applicant:

"Keeping in view the above evidence on record, I award Ct. Harish Chander, No. 239/F the punishment of reduction in pay by 7 stages from Rs. 1150/- to Rs. 1010/-. The pay of Ct. Harish Chander, No. 239/F, 4868/DAP is hereby reduced by 7 stages from Rs. 1050/- to Rs. 1010/- in time scales of pay for a period of 7 years. He will not earn increments of pay during the period of reduction and on the expiry of this period the reduction will have the

Ms Ag

effect of postponing his future increment of pay. Further his suspension period from 4.8.1991 to 5.12.1991 is here by decided as period not spent on duty and he will not draw any thing else than what he has already been drawn in the shape of subsistence allowance."

2. His appeal had been dismissed. The applicant filed the present O.A. seeking to assail the orders passed by the disciplinary as well as the appellate authority. On 11.3.99, this Tribunal recorded that the competent authority had not imposed the penalty. Resultantly, the order referred to above was set aside with liberty to take up fresh disciplinary proceedings against the applicant. The Union of India had challenged the same and filed C.W.P.No.4953/99. The order passed by this Tribunal was set aside with a direction to pass a fresh order in this regard.

3. Learned counsel for the applicant relying upon 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, contended that the impugned order violates rule 8(d)(ii) of Delhi Police (Punishment and Appeal) Rules.

4. Since this question goes to the ~~jurisdictional~~ ^{purely legal} aspect, we have considered the said submission. The Delhi High Court in the case of Shakti Singh (supra), while construing a similar penalty, 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

As Ag

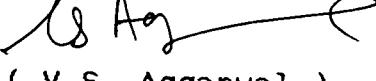
provision. It, therefore, must be strictly construed.

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."

5. Identical is the position herein. Resultantly, we quash the impugned orders with a direction to the disciplinary authority to pass a fresh order in accordance with law. We make it clear that nothing said herein is an ~~expression~~ of opinion on the merits of the matter.


(S.A. Singh)
Member (A)


(V.S. Aggarwal)
Chairman

/dkm/