

(2)

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI

O.A.NO.166/2004

this the 4th day of February, 2004

Hon'ble Shri Justice V.S.Agarwal, Chairman  
Hon'ble Shri S. A. Singh, Member (A)

Jawahar Lal,  
D-1/673,  
S/o Late Shri Nathu Ram,  
R/o K-37, Angur Bhawan,  
Gopal Nagar, Najafgarh,  
New Delhi.  
(By advocate: Shri Shyam Babu)

Vs

1. Govt. of NCT of Delhi,  
through its Chief Secretary,  
Players Building, I.P.Estate,  
New Delhi.
2. Commissioner of Police Delhi  
Police Headquarters, I.P.Estate,  
New Delhi.
3. Jt.Commissioner of Police Delhi  
Police Headquarters, I.P.Estate,  
New Delhi.

... Respondents.

(By Advocate: Shri Ajesh Luthra)

O R D E R (ORAL)

Shri Justice V.S.Agarwal:

The applicant faced a joint departmental inquiry along with Sub-Inspector Jagdish Chander. It was alleged that on the night intervening 29/30.6.1997, one lady Ms.Kavita Kaur Bachada, a British National had arrieved at the Indira Gandhi International Airport from London and reported at the Immigration counter of the applicant for immigration clearance. Jagdish Chandra had checked the passport and other travel documents and made querries about the spellings of the passenger's name written in the passport. He ~~had~~ refused to clear her only on the ground that there was some discrepancy in the spellings. She had submitted a written complaint.

*VS Ag*

(1)

2. In pursuance of the said complaint, departmental proceedings had been initiated in which following penalty had been imposed:-

"Under the circumstances and in view of above discussion I found the D.E. finding in order which is based on facts and record. I agree to the finding and hereby award the punishment of forfeiture of two year's approved service permanently for a period of two years to Insp. Jawahar Lal. No.D-I/673 w.e.f. 9.8.2000 after expiry of earlier punishment i.e. forfeiture of two years approved service permanently for a period of one year awarded to him vide order No.8517-25/P.Cell/Vig./P-V dated 9.8.99. Since the misconduct of SI Jagdish Chander, No.D/908 was of gravest nature, hence, I forfeit his five year's approved service permanently for a period of five years with immediate effect. This punishment will however run concurrently with the earlier punishment i.e. withholding of his increment for a period of five years with cumulative effect awarded to him vide order No.2521-46/For(HAP)(~P-I) dated 15.5.2000. The pay of Insp. Jawahar Lal, No.D-I/673 is reduced from the stage of Rs.7700/-P.M. to Rs.7300/-P.M. and from Rs.6900/-P.M. to Rs.6025/-P.M. in respect of SI Jagdish Chander, No.D/908 in their time scale of pay. They will not earn the increments of pay during the period of reduction and that on the expiry of the period, the reduction will have the effect of postponing of their future increments of pay."

3. The applicant preferred an appeal, which has been dismissed. Without dwelling into merits of the application regarding which we are not expressing any opinion, the learned counsel asserted that the penalty awarded is contrary to the plain language of Rule 8(d) (ii) of Delhi Police (Punishment & Appeal) Rules, 1980. The above said rule came up for consideration before the Delhi High Court in the case of Shakti Singh Vs. Union of India & Others (CWP 2368/2000) decided on 17.9.2002.

4. While construing the said rule, the Delhi High Court has held:

*Ms Ag*



"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.

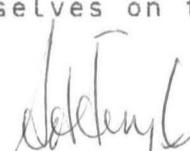
Rule 8(ii) of the said Rules is a penal provision. It, therefore, must be strictly construed.

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.

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

5. When the present matter is examined in the light of the decision of the Delhi High Court in Shakti Singh's case (supra), it would be obvious that the penalty awarded runs contrary to rule 8(d) (ii) of the Rules, referred to above. Therefore, it cannot be sustained.

6. Resultantly, we allow the present application and quash the impugned orders. It is directed that the disciplinary authority may pass a fresh order in accordance with law. However, we are not expressing ourselves on the other pleas raised by the applicant.

  
( S.A. Singh )  
Member (A)

  
( V.S. Aggarwal )  
Chairman