

Central Administrative Tribunal, Principal Bench, New Delhi

O.A.No.1140/2004

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

New Delhi, this the 20th day of December, 2004

Ct. (Dvr) Rai Singh, No.4939/DAP,
S/o Shri Risal Singh,
R/o H.No. RZ521, Gali No.20,
Sadh Nagar II, Palam Colony,
New Delhi-45

....Applicant

(By Advocate: Shri Sachin Chauhan)

Versus

1. Govt. of NCT Delhi,
Through its Chief Secretary,
Govt. of NCT Delhi,
5 Sham Nath Marg,
New Delhi
2. Addl. Commissioner of Police,
P.C.R. & Communication,
Police Headquarters, I.P. Estate,
M.S.O. Building, New Delhi
3. Addl. Dy. Commissioner of Police,
Police Control Room,
Delhi

....Respondents

(By Advocate: Shri Ajesh Luthra)

Order(Oral)

Justice V.S. Aggarwal, Chairman

The applicant had filed O.A.92/2003. On 16.1.2003, this Tribunal had quashed the orders passed by the disciplinary as well as the appellate authority. Reliance was placed on the decision of the Delhi High Court in the case of Shakti Singh vs. Union of India and ors. (C.W.P. No.2368/2000) decided on 17.9.2002. Direction was given that disciplinary authority may proceed with the case in accordance with law.

2.After the decision of this Tribunal, the disciplinary authority order of 5.3.2003 indicates that in compliance of the directions of this Tribunal, a fresh penalty order has been passed.

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The applicant filed an appeal and the same was held to be not maintainable.

3. Learned counsel for the applicant reserving his right to challenge any order that may be passed, contends that the disciplinary authority's order is a non-speaking order and further the appeal in any case was maintainable once this Tribunal in the earlier litigation had quashed the said order.

4. On both the counts, we find that the application has to succeed. The disciplinary authority has passed the following order:

"In pursuance of Hon'ble CAT's judgement dated 16-1-2003 passed in O.A. No.92/2003, Const. (Dvr.) Rai Singh Vs. GNCT & Ors., and opinion of LA to CP, Delhi conveyed by DCP/Vigilance, New Delhi vide memo No. 1259/P. Cell. Vig. (P-V) dated 14-2-2003, the order of disciplinary authority imposing the penalty of forfeiture of two years approved service permanently for a period of two years entailing reduction in his pay from Rs.3350/- to Rs.3200/- upon Const. (Dvr.) Rai Singh No.4953/DAP (Now 4175/PCR) and that 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, issued vide No.2516-60/HAP(P-II) PCR, dated 15-2-2001 and order of appellate authority rejecting appeal of the Const. (Dvr) issued vide No.699-700/I/C (Appeal) Addl. CP/P&C dated 22-2-2002, are hereby quashed.

The matter is reconsidered in compliance of Hon'ble CAT's order dated 16-1-2003 in aforesaid O.A. and it is further ordered that two years approved service of Const. (Dvr.) Rai Singh No.4953/DAP (Now 4175/PCR) is forfeited permanently entailing reduction in his pay from Rs.3350/- P.M. to Rs.3200/- P.M. The suspension period of the Const. (Dvr.) from 23-5-95 to 29-6-95 and his dismissal period from 24-10-96 to 30-11-2000 decided as period not spent on duty vide this office order No.2516-60/HAP(P-II)PCR, dated 15-2-2001, shall remain in force.

Let him be informed accordingly."

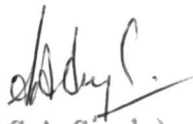
5. It clearly shows that it is a non-speaking order. The facts which had to be considered, had not been considered and only the penalty order has been revised. In all fairness, the order should be comprehensive and complete.

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6. We need hardly emphasize that once the orders have been set aside, in any case the appeal would be maintainable in terms of law. To that extent, the impugned order copy of which is Annexure A-2 also is without any substance.

7. For these reasons, we quash the impugned order and direct that the disciplinary authority may pass a fresh order in accordance with law. It may be so done within three months of the receipt of the certified copy of the present order. The applicant would be entitled to the consequential benefits, if any.


(S.A. Singh)
Member(A)

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(V.S. Aggarwal)
Chairman