

8

**Central Administrative Tribunal
Principal Bench, New Delhi**

O.A.No.1437/2004

Tuesday, this the 1st day of March, 2005

**Hon'ble Shri Justice V.S. Aggarwal, Chairman
Hon'ble Shri S. K. Naik, Member (A)**

Raj Pal
Head Constable of Delhi Police
(PIS No.28820202)
R/o House No.243
V&PO, Pooth Kalan, Delhi-41

..Applicant

(By Advocate: Shri Anil Singal)

Versus

1. Govt. of NCT of Delhi
through Commissioner of Police
Police Headquarters
IP Estate, New Delhi
2. Joint Commissioner of Police
Operations, PHQ
IP Estate, New Delhi
3. DCP (FRRO)
through Commissioner of Police
Police Head Quarters
IP Estate, New Delhi

..Respondents

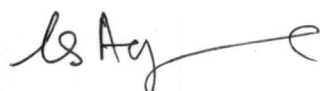
(By Advocate: Ms. Rashmi Chopra)

ORDER (ORAL)

Justice V.S. Aggarwal:

The applicant had earlier filed OA-1905/2002. When the matter came up for hearing, taking stock of the ratio *decidendi* of the decision of the Delhi High Court in the case of **Shakti Singh v. Union of India & others** (CWP-2368/2000) decided on 17.9.2002, the matter was remitted to the disciplinary authority to pass a fresh order in accordance with law.

2. After the matter has been remitted, the disciplinary authority has passed a fresh order. Operative part of which reads:-



"In pursuance of the judgement dated 30.1.2002 pronounced by the Principal Bench of Hon'ble CAT, Delhi in O.A.No.1905/02 - HC Rajpal No.193/F Vs. C.P., Delhi & Ors. and directions issued by DCP/Vigilance, Delhi's vide his office memo. No.2977/P.Cell/Vig.(P-V) dated 2.4.2003, the punishment awarded by the disciplinary authority of forfeiture of three years approved service temporarily to HC Rajpal, No.193/F by reducing his pay from Rs.4220/- P.M., to Rs.3965/- P.M. in the time scale of pay for a period of three years with immediate effect, with condition that he will not earn increment of pay during the period of reduction and that on the expiry of this period the reduction will not have the effect of postponing his future increments of pay, vide order No.3148-3180/For (HAP) dated 11.10.2001 and the order No.823-26/P.Sec.Jt. CP (Ops.) Delhi, dated 23.5.2002 issued by the appellate authority vide which the appeal filed by the applicant was rejected, are treated as quashed and set-aside.

In view of the above directions given in the judgement dated 30.1.2003 by the Hon'ble C.A.T., Delhi and PHQ's circular No.12230-430/CR-I/PHQ dated 16.4.2002, it is hereby ordered that "his (HC Rajpal No.193/F) three years approved service is forfeited temporarily entailing reduction in his pay from Rs.4220/- P.M. to Rs.3965/- P.M. for a period of three years" with effect from the date of previous order issued vide this office order No.3148-3180/For (HAP) dated 11.10.2001."

3. The applicant preferred an appeal. The same has been dismissed to be not maintainable.

4. Without dwelling into the merits of the matter, to which we also intend to express any opinion, it has been urged that firstly the appellate authority could not hold that appeal is not maintainable and secondly, even the disciplinary authority should have passed an order in accordance with law because the appellate order had been set aside.

5. Once the order is set aside, necessarily, the disciplinary authority is required to pass a fresh order and that is in the fitness of things that the matter should be re-considered. *in light of the findings of the Tribunal.* We do not, in this regard, intend to dwell into the jurisdiction of the disciplinary authority but in all fairness, it should be an order to be passed in accordance with law.

6. Not only that, once the order has been so passed, a fresh appeal would lie and even the subsequent orders, copy of which is at Annexure A-5, which states that another appeal is not maintainable, cannot be accepted as a correct principle.

ls Ag 

7. Resultantly, we allow the OA and quash both the impugned orders. It is directed that disciplinary authority should pass a fresh order in accordance with law preferably within two months of the receipt of a certified copy of the present order.

S. K. Naik
(S. K. Naik)
Member (A)

/sunil/

V. S. Aggarwal
(V. S. Aggarwal)
Chairman