

Central Administrative Tribunal, Principal Bench, New Delhi

O.A.No.1553/2004

New Delhi, this the 4th day of February, 2005

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

D.V.Gautam (D-3019)
S/o Shri R.D. Gautam,
R/o 432-A, Block-B,
Sector-19, Noida
At present working as
SI in P.S. Kalyan Puri,
(East District)

....Applicant

(By Advocate: Shri Shyam Babu)

Versus

1. Govt. of NCT of Delhi,
Through its Chief Secretary,
Players Building, I.P. Estate,
New Delhi-1

2. Commissioner of Police,
Police Headquarters,
I.P. Estate,
New Delhi.

3. Jt. Commissioner of Police,
New Delhi Range,
Police Headquarters,
I.P.Estate, New Delhi

....Respondents

(By Advocate: Shri Ajesh Luthra)

Order(Oral)Justice V.S. Aggarwal, Chairman

The applicant assails the order passed by the disciplinary authority dated 30.5.2000 by virtue of which, he has been awarded the following penalty:

“Regarding SI D.V. Gautam it has been established that the SI had indulged in extortion of money from the complainants and he also took the Maruti Zen Car of Raghbir Chaudhary but he neither made any seizure memo nor deposited the car in P.S. Malkhana and used the same for his personal gain for 14 days and returned it to the wife of owner after persistent efforts. Though the records are not available as the same were not prepared by him but the recovery of his scooter from the parking at ISBT and other circumstances indicate that the SI had been using the car. The pleas taken by the S.I. in O.R. also have no force. I, therefore, award him the punishment of forfeiture of two years approved service permanently for a period of two years entailing proportionate reduction in his pay. He will not earn increments during the period of reduction and on the expiry of this period the reduction will have the effect of postponing of this future increments.”

His appeal has been dismissed.

2. The first and foremost question raised is that the penalty awarded violates rule 8 (d) (ii) of Delhi Police (Punishment and Appeal) Rules, 1980. In support of his claim, the learned counsel relied upon the decision of the Delhi High Court in the case of Shakti Singh vs. Union of India & ors. (Civil Appeal No.2368/2000) decided on 17.9.2002. A similar question came up for consideration before the Delhi High Court and it was 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.



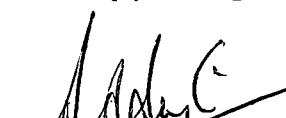
Rule 8(d)(ii) of the said Rules is a penal provision. It, therefore, must be strictly construed.

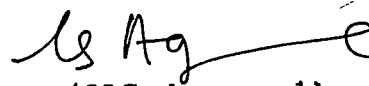
The words of the statute, as is well known, shall be understood in their ordinary or popular sense. Sentences are required to be construed according to their grammatical meaning. Rule of interpretation may be taken recourse to, unless the plain language used gives rise to an absurdity or unless there 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."

3. Identical is the position herein. Resultantly, we allow the present application on this limited ground and quash the impugned orders. It is directed:

- (a) the disciplinary authority, if deemed appropriate, may pass a fresh order preferably within eight weeks from today;
- (b) consequential benefits, if any, should be accorded to the applicant; and
- (c) no opinion need be expressed on the other controversies.


(S.A. Singh)
Member(A)


(V.S. Aggarwal)
Chairman

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