

Central Administrative Tribunal, Principal Bench, New Delhi

O.A.No.285/2004

New Delhi, this the 24th day of November, 2004

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

K.P. Malik, Sub-Inspector (D-2950),
S/o Shri Harbir Singh,
R/o G-7, Police Station,
Hauz Khas,
New Delhi

.....Applicant

(By Advocate: Shri N.S. Verma)

Versus

1. The Commissioner of Police,
Delhi Police, M.S.O. Building,
I.P. Estate,
New Delhi

.....Respondents

(By Advocate: Shri Harvir Singh)

Order(Oral)

Justice V.S. Aggarwal, Chairman

The applicant is a Sub-Inspector in Delhi Police. He faced disciplinary proceedings. The disciplinary authority imposed the following penalty:

"In view of these facts, I partially disagreeing with the findings of the E.O. hold both the S.I. and H.C. directly accountable for this minimization of offence. I, therefore, order forfeiture of one year's approved service of S.I. K.P. Malik, No.D/2950 and HC Lala Bakhla, No.127/SD permanently for a period of one year entailing reduction in their pay from Rs.6725/- P.M. to Rs.6550/- P.M. and from Rs.4220/- P.M. to Rs.4135/- P.M. respectively with immediate effect. They 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 their future increments of pay."

LS Aggarwal

The applicant preferred an appeal which has been dismissed on 20.1.2003.

2. The short question which does not permit us to go to the merits of the matter is that the penalty has been awarded contrary to rule 8 (d) (ii) of Delhi Police (Punishment and Appeal) Rules, 1980 in this regard. It becomes unnecessary for this Tribunal to delve into the merits but we can refer with advantage to 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 penalty like the one in the present case had been imposed on the petitioner therein. The Delhi High Court 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.

4. Resultantly, we quash the impugned orders and direct that the disciplinary authority would in accordance with law pass a fresh order. The applicant would be entitled to the consequential benefits. O.A. is disposed of.


(S.K. Malhotra)
Member(A)


(V.S. Aggarwal)
Chairman

/dkm/