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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

O.A.No.408/2004

Monday, this the 2nd day of August, 2004

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

Const. Mohinder Singh
(PIS No.28850805)
R/o Vill. & PO Khera Kalan
Pandit Mohalla, Delhi-82

...Applicant

(By Advocate: Shri Anil Singal)

Versus

1. Commissioner of Police
PHQ, IP Estate, New Delhi
2. Jt. Commissioner of Police
(Operations)
PHQ, IP Estate
New Delhi
3. DCP (IGI Airport)
through Commissioner of Police
PHQ, IP Estate, New Delhi

...Respondents

(By Advocate: Shri Ajesh Luthra)

O R D E R (ORAL)

Justice V. S. Aggarwal:

By virtue of the present application, the applicant (Mohinder Singh) seeks to assail the order passed by the disciplinary authority dated 27.8.1999 whereby following penalty has been imposed:-

"Thereafter, on the basis of DE proceedings, overall circumstances of the case and in view of above discussion and charge, I am inclined to award the punishment of forfeiture of 2 years approved service permanently for a period of 2 years to Const. Mohinder Singh, No.2239/A entailing proportionate reduction in his pay from Rs.3000/- to Rs. 3650/- P.M. in the time scale of pay with immediate effect. 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 increment of pay. His suspension period from

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24.2.98 to 15.3.98 is also decided as period not spent on duty for all intents and purposes."

2. The applicant preferred an appeal which was dismissed on 29.11.1999. His revision petition had been dismissed but, according to the applicant, the order was communicated to him only on 30.10.2003.

3. The petition is being contested.

4. Learned counsel for respondents has taken the plea that the application is barred by time because, according to him, the impugned orders by the disciplinary as well as by the appellate authorities were passed, as referred to above, more than a year before filing of the petition.

5. In face of these facts, we had asked the learned counsel for respondents to produce the record.

6. It is fairly not disputed that the order was sent on 12.3.2001 to the applicant but there is no postal acknowledgement or material on record to show that it has been served on the applicant.

7. In answer, it was pointed that the said order was received by the applicant only in October, 2003.

8. Keeping in view this fact, we are of the opinion that in the peculiar facts of the case, it cannot be termed that the petition is barred by time because the limitation started running from October, 2003.

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9. At this stage, it is relevant to mention that it would be unnecessary for this Tribunal to dwell into the merits of the matter. The reason being that it is asserted that the penalty awarded is contrary to Rule 8 (d) (ii) of Delhi Police (Punishment & Appeal) Rules, 1980. In support of his claim, learned counsel for applicant relies upon the decision of Delhi High Court in CWP-2368/2000 decided on 17.9.2002 entitled Shakti Singh v. Union of India & Ors., wherein similar penalty, like the present one, had been imposed and the Delhi High Court held:-

"It is not in dispute that by reason of the order impugned before the Tribunal, the services of the petitioner were forfeited as a result whereof reduction in his pay was directed. Thus, his pay was further reduced by five stages from Rs.2525/- to Rs.2,100/- in the time scale of pay for a period of five years. Yet again, it was directed that he would not earn increments of pay during the period of reduction and on the expiry of the said period such reduction would have the effect of postponing his future increments of pay.

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 give rise to an absurdity or unless there is

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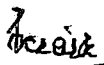
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something in the context or in the object of the statute to suggest the contrary.

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

10. Keeping in view the aforesaid, in the first instance, it would be appropriate that the said mistake should be corrected and, therefore, at the risk of repetition, it is stated that it is not proper to go into any other question^s.

11. Resultantly, the present petition is allowed and impugned orders are quashed. It is directed that the disciplinary authority may, in accordance with law, pass fresh order. The applicant would be entitled to the consquential benefits, if any.


(S. K. Naik)
Member (A)


(V. S. Aggarwal)
Chairman

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