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CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH

OA 548/2004

New Delhi, this the 24<sup>th</sup> day of December, 2004

Hon'ble Shri Justice V.S. Aggarwal, Chairman  
Hon'ble Shri Sarveshwar Jha, Member (A)

Mahinder Singh  
S/o Sh. Ram Singh  
R/o Vill. Deghot,  
Tehsil Palwal, Distt. Faridabad  
Haryana.

- Applicant

(By Advocate Shri N. Safaya)

versus

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

2. Joint Commissioner of Police (Traffic)  
Police Headquarters, I.P. Estate  
New Delhi.

(By Advocate Mr. Falak Mohd. proxy for Ms. P.K. Gupta)

- Respondents

ORDER (ORAL)

Hon'ble Shri Justice V.S. Aggarwal,

The applicant had earlier filed OA 1348/2000 which was decided by this Tribunal on 8-12-2000. The matter was remitted to the appellate authority to consider imposition of any penalty other than penalty of dismissal from service. The said order is:-

'In the circumstances, without interfering with the finding of guilt arrived at against the applicant, we proceed to quash the order of penalty of dismissal from service and remit the matter back to the appellate authority to consider imposition of any penalty other than the penalty of dismissal or removal from service.'

2. After the said order was passed by this Tribunal, Joint Commissioner of Police had passed a fresh order dated 7.3.2001 forfeiting ten years service of the applicant for a period of ten years by reducing his pay by ten stages from Rs 3600/- to Rs 2031/-.

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in the pay scale with immediate effect. Further more FR 29 was pressed into service that the applicant will not earn increments of pay during the period of reduction. The relevant portion of the said order reads as under :-

"In compliance of the orders of the Hon'ble CAT the defaulter Ex. Constable Mahender Singh No.1554/T is hereby reinstated in service with immediate effect as a pre-requisite to the fresh decision with regard to the penalty to be imposed - as a consequence to the orders of the Tribunal dated 8-12-2000. However, considering the irresponsible behaviour and gross unaccountability towards his duties as a police official, while repeatedly remaining absent on more than 59 occasions, I forfeit his ten years of service for a period of ten years by reducing his pay by ten stages from Rs.3800/- to Rs.3050/- p.m. in the pay scale of pay with immediate effect. As per FR 29 he will not earn increments of pay during the period of reduction and that on the expiry of this period, the reduction will have the effect of postponing his future increments of pay. The period from the date of dismissal from service to the date of issue of this order will be treated as not spent on duty on the principle of 'no work no pay'. Further the intervening period from the date of issue of this order to the date of joining the duty by the defaulter be treated as dies-non. Ex. Const. Mahender Singh No.1554/T is hereby directed to report for duty to RI/RND."

3. This prompted the applicant to file OA 69/2002, which was decided on 13-11-2002. Once again the order passed was quashed. The matter was remitted to the appellate authority to pass a fresh order in accordance with Delhi Police Act and Fundamental Rule 29.

4. The impugned order has now been passed whereby ten years approved service of the applicant has been forfeited permanently entailing reduction in his pay from Rs.3800/- to Rs.3050/-.

5. Learned counsel for the applicant contends that instead of passing the order in terms of the directions of this Tribunal, the penalty has increased as earlier the order was passed forfeiting ten years service for a period of ten years but now it has been made permanent.

6. We find that the submissions have basis and the impugned order on that account cannot be sustained. In all fairness, once this Tribunal had directed that fresh order should be passed taking note of Delhi Police Act and Fundamental Rule 29, the same should have been passed in the spirit in which the order was passed. Now

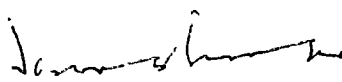
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language speaks for itself, the penalty by virtue of the aforesaid order has been enhanced from temporary forfeiture of service and now it has been made permanent.

7. Resultantly, we allow the present application and direct that a fresh order in light of the aforesaid may be passed within two months from the receipt of certified copy of this order. Applicant would be entitled for the consequential benefits.

  
(Sarveshwar Jha)  
Member (A)

  
(V.S. Aggarwal)  
Chairman

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