

Central Administrative Tribunal, Principal Bench, New Delhi

O.A.No.913/2004

New Delhi, this the 9th day of December, 2004

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

Yad Ram
S/o Shri Amrit Singh,
R/o H.No.1073, Ward No.1,
Mehrauli, New Delhi

....Applicant

(By Advocate: Shri Kanwal Sapra)

Versus

1. Union of India,
Through the Secretary,
Ministry of Home Affairs,
North Block, New Delhi.
2. The Commissioner of Police,
Delhi Police, M.S.O. Building,
Police Headquarters,
I.P. Estate, New Delhi.
3. Shri R.K. Sharma,
The then Addl. Commissioner of Police,
Security, Main Security Police Lines,
Vinay Marg, Chanakyapuri,
New Delhi.
4. Shri J.K. Sharma,
Addl. Commissioner of Police,
Security, Vinay Marg,
New Delhi

....Respondents

(By Advocate: Mrs.Avnish Ahlawat)



Order(Oral)

Justice V.S. Aggarwal, Chairman

The applicant is an Inspector in Delhi Police. He faced disciplinary proceedings and on 6.12.2001, the disciplinary authority had inflicted the following penalty on him:

“In view of the above discussion, I am not agreeing with the representation submitted by Inspr. Yad Ram. I, therefore, award him the punishment of forfeiture of five years approved service for a period of five years with cumulative effect entailing subsequent reduction in his pay. Accordingly the pay of Inspr. Yad Ram No.D-I/953 is reduced by five stages from Rs.8500/- P.M. to Rs.7500/- P.M. in the time scale of pay for a period of five years from the date of issue of this order. He will not earn increments of pay during the period of reduction and on the expiry of this period, the reduction will have the effect of postponing his future increments of pay.”

The applicant preferred an appeal and on 9.6.2003, the appellate authority dismissed the same.

2.Learned counsel for the applicant raised various pleas on merits of the matter but we are not going into them.

3.The reason being that it was urged that penalty awarded contravenes 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.





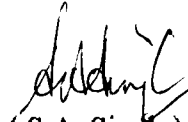
- The words of the statute, as is well known, shall be understood in their ordinary or popular sense. Sentences are required to be construed according to their grammatical meaning. Rule of interpretation may be taken recourse to, unless the plain language used gives rise to an absurdity or unless there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

4. When such is the position, it is clear from the binding nature of the decision of the Delhi High Court that the penalty awarded contravenes rule 8 (d) (ii) of the Rules referred to above.

5. Resultantly, on this short ground, the impugned orders cannot be sustained. We accordingly quash the impugned orders and direct that if deemed appropriate, the disciplinary authority may pass a fresh order in accordance with law.

The applicant would be entitled to the consequential benefits, if any.


(S.A. Singh)
Member(A)


(V.S. Aggarwal)
Chairman

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