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Central Administrative Tribunal, Principal Bench

Original Application No.1426 of 2003

with

Original Application No.2375 of 2003

M.A.No.2036/2003

New Delhi, this the 22nd day of April, 2004

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

O.A. 1426/2003

Ramesh Chand
S/o Shri Jagdish Prasad,
Constable in Delhi Police
(PIS No.28931246)
R/o Vill:- Abdulapur Mewla
PO:- Aminagar Sarai
Distt:- Bagpat, UP

....Applicant

(By Advocate: Shri Anil Singal)

O.A. 2375/2003

Gian Bahadur
Head Constable in Delhi Police
(PIS No.28740695)
R/o House No.735,
Shastri Gram,
PO & PS :- Garhi Cantt.
Dehradun, Uttranchal

....Applicant

(By Advocate: Shri Anil Singal)

Versus

1. GNCT of Delhi through
Commissioner of Police,
Police Head Quarters,
I.P. Estate, New Delhi
2. Joint Commissioner of Police,
(Traffic), P.H.Q.,
I.P. Estate, New Delhi
3. DCP (Traffic)
through Comm. of Police,
Police Head Quarters,
I.P. Estate, New Delhi
4. Shri R.S. Jhakar (EO)
then Traffic Inspector
through Comm. of Police
Police Head Quarters,
I.P. Estate, New Delhi

....Respondents

(By Advocate: Shri Ashwani Bhardwaj, proxy for Shri Rajan
Sharma)

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O R D E R (ORAL)

By Justice V.S. Aggarwal, Chairman

M.A. 2036/2003 in O.A. 2375/2003

For the reasons stated in the application, delay is condoned.

O.A. 1426/2003 & O.A. 2375/2003

By this common order, we can conveniently dispose of two petitions involving a common controversy.

2. In O.A. 1426/2003, the disciplinary authority had passed the penalty order dated 15.9.2001. It reads:

"Hence, I impose the penalty of forfeiture of two years approved service permanently for a period of two years upon HC Gian Bahadur, No.1808-T and Const. Ramesh Chand, No.2883-T entailing reduction in their pay. The pay of HC Gian Bahadur, No.1808-T and Const. Ramesh Chand, No.2883-T is reduced from Rs.4400/- to Rs.4200/- and from Rs.3500/- to Rs.3350/- respectively in their time scale of pay for a period of two years with immediate effect. They 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 their future increment of pay. Their suspension period from 06.03.2000 to 29.06.2001 is also decided as period not spent on duty."

3. In O.A. 2375/2003, the co-delinquent Gian Bahadur had been imposed the following penalty:

"Hence, I impose the penalty of forfeiture of two years approved service permanently for a period of two years upon HC Gian Bahadur, No.1808-T and Const. Ramesh Chand, No.2883-T entailing reduction in their pay. The pay of HC Gian Bahadur, No.1803-T and Const. Ramesh Chand, No.2883-T is reduced from Rs.4400/- to Rs.4200/- and from

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Rs.3500/- to Rs.3350/- respectively in their time scale of pay for a period of two years with immediate effect. They 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 their future increment of pay. Their suspension period from 06.03.2000 to 29.06.2001 is also decided as period not spent on duty."

4. The appeals preferred by the applicants in both the cases have since been dismissed.

5. Without delving into any other controversy, learned counsel for the applicants relied upon the decision of the Delhi High Court in the case of Shakti Singh vs. Union of India (C.W.P.No.2368/2000) decided on 17.9.2002. A similar controversy as in the present case had come up for consideration. It pertained to interpretation of rule 8(d)(ii) of Delhi Police (Punishment and Appeal) Rules. 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.

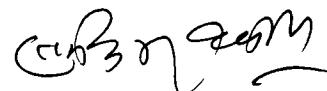
Keeping in view the aforementioned basic principles in mind, the said rule is


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required to be interpreted."

6. Identical is the position herein. Therefore, necessarily keeping in view the ratio decidendi of the decision rendered in the case of Shakti Singh (supra), we quash the impugned orders and direct that the disciplinary authority may pick up the loose threads and from the stage the punishment order has been passed may, as deemed appropriate, pass any fresh order in accordance with law. The applicants would be entitled to the consequential benefits. O.A. is disposed of.


(R.K. Upadhyaya)
Member (A)


(V.S. Aggarwal)
Chairman

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