

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. No.1724 OF 2003

New Delhi, this the 12th day of December, 2003

HON'BLE SHRI JUSTICE V.S. AGGARWAL, CHAIRMAN
HON'BLE SHRI S.A. SINGH, ADMINISTRATIVE MEMBER

SUB INSPECTOR BHARAT RAM
No.D/3430, Security Unit of Delhi Police
Delhi.

.....Applicant
(None present)

Versus

1. Union of India
Through its Home Secretary (Police),
Ministry of Home Affairs,
North Block, New Delhi.
2. Additional Commissioner of Police/Traffic
Police Headquarters, I.P. Estate,
M.S.O. Building, New Delhi.
3. Dy. Commissioner of Police/Traffic
at Police Station R.K. Puram,
New Delhi.
4. Shri S.K. Tomar
Asstt. Commissioner of Police/ Traffic,
New Delhi, Through D.C.P./H.Qtrs.,
Police Head Qtrs., I.P. Estate,
New Delhi.

.....Respondents

(By Advocate : Shri Ajesh Luthra)

ORDER (ORAL)

SHRI JUSTICE V.S. AGGARWAL:-

The applicant is a Sub Inspector in Delhi Police. The disciplinary proceedings had been initiated against the applicant and the disciplinary authority on 5.2.2001 imposed the following penalty on the applicant:-

"The pay of SI Bharat Ram No.D-3430 is reduced by three stages from Rs.6200/- p.m. to Rs.5675/- p.m. in time scale of pay for a period of three years with immediate effect. The pay of HC Vinod Kumar No.243/T and Const. Mansukh No.1692/I is reduced by two stages from Rs.3965/- p.m. to Rs.3795/-

Ms Ag _____

p.m. and Rs.3425/- p.m. to 3275/- p.m. respectively in the time scale of pay for a period of two years 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."

The applicant preferred an appeal which has since been dismissed. The applicant seeks to assail the orders passed by the disciplinary as well as appellate authority.

2. We are not going into the other merits of the Original Application because our attention has been drawn towards the decision rendered by the Delhi High Court in the case of Shakti Singh Vs. Union of India and Ors. in Civil Writ Petition No.2368/2000 decided on 17.9.2002 wherein Rule 8 (d) (ii) of the Delhi Police (Punishment & Appeal) Rules, 1980 had came up for consideration before the Delhi High Court. Therein the penalty was :

"The charge levelled against Insp. Shakti Singh, No.D-1/231 is fully proved... Thus, the pay of Insp. Shakti Singh, No.D-1/231 is reduced by five stages from Rs.2525/- to Rs.2100/- in the time scale of pay for a period of five years. 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 increments of pay."

3. The Delhi High Court held that keeping in view the plain and simple language of Rule 8 (d) (ii) of the rules ibid, the order like the one before us which

Ms Agre

tantamounts to impose the dual penalty, the finding reads :-

"Rule 8(d) of the said Rules provides that approved service may be forfeited permanently or temporarily for a specified period as mentioned therein. Such a forfeiture of approved service may be (i) for purposes of promotion or seniority, which can only be permanent in nature; (ii) entailing reduction of pay; and/or (iii) deferment of an increment or increments permanently or temporarily.

4. 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 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."

Ms Ag

(4)

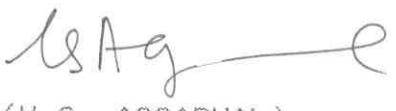
A

4. Keeping in view the aforesaid decision, necessarily the impugned orders in the present Original Application cannot be sustained.

5. On this short ground, therefore, we quash the impugned orders qua the applicant and direct that the disciplinary authority, if deem fit appropriate, may pass a fresh order from the stage the impugned order had been passed.

6. The Original Application is accordingly disposed of. No costs.


(S.A. SINGH)
ADMINISTRATIVE MEMBER


(V.S. AGGARWAL)
CHAIRMAN

/ravi/