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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. No.2062 OF 2003

New Delhi, this the 2nd day of January, 2004

HON'BLE SHRI JUSTICE V.S. AGGARWAL, CHAIRMAN
HON'BLE SHRI R.K. UPADHYAYA, ADMINISTRATIVE MEMBER

M.C. Katoch (D-I/241)
S/o Shri Madho Singh,
R/o 12, Police Station Vasant Vihar Complex,
New Delhi.

.....Applicant

(By Advocate : Shri Ashwani Bhardwaj for
Shri Shyam Babu)

Versus

1. Chief Secretary,
Government of NCT, Delhi,
Players Building, I.P. Estate,
New Delhi.
2. Commissioner of Police,
Police Head Quarter,
I.P. Estate,
New Delhi.
3. Deputy Commissioner of Police (AP),
Police Head Quarter,
I.P. Estate,
New Delhi.

.....Respondents

(By Advocate : Shri Ajesh Luthra)

ORDER (ORAL)

SHRI JUSTICE V.S. AGGARWAL:-

The applicant faced departmental proceedings.
The disciplinary authority had, on the report of the
inquiry officer and after recording reasons, imposed
the following penalty:-

"In view of this, all the defaulters are held
guilty of the charge. I, therefore, award a
punishment of forfeiture of one year approved
service temporarily for a period of one year
to Inspr. M.C. Katoch No.D-I/241, ASI
Jagbir Singh, No.3885/D and HC Ram Mehar
Singh, No.349/NE,4002/DAP,9094/DAP by
entailing reduction in their pay from
Rs.8100/- to Rs.7900/- Rs.4900/- to
Rs.4800/- and Rs.4305/- to Rs.4220/-
respectively with immediate effect in the
time scale of their pay. They will not earn
increment of pay during the period of



reduction and on the expiry of this period the reduction will not have the effect of postponing their future increments of pay."

2. He preferred an appeal, which has since been dismissed on 14.11.2002.

3. By virtue of the present application, the applicant assails the orders passed by the disciplinary as well as the appellate authorities.

4. The petition has been contested.

5. Without dwelling into the merits of the matter, our attention has been drawn to the Delhi High Court decision in the case of Shakti Singh Vs. Union of India and Ors. in CWP No.2368/2000 decided on 17.12.2002. Rule 8(d)(ii) of the Delhi Police (Punishment & Appeal) Rules, 1980 came up for consideration before the Delhi High Court. The Delhi High Court held :-

"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.

1. 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'.

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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 contest 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."

6. The penalty in the present case is identical to the one that has been imposed in the case of Shakti Singh (supra). On parity of reasons, it must, therefore, be held that the penalty awarded is contrary to the strict provision of Rule 8(d)(ii) of the rules referred to above. Therefore, on this short ground, the impugned orders cannot be sustained.

7. Resultantly, we allow the present Original Application and quash the impugned orders qua the applicant. We make it clear that we are not expressing ourselves on the merits of the matter. The disciplinary authority may pass a fresh order in accordance with law.


(R.K. UPADHYAYA)
ADMINISTRATIVE MEMBER


(V.S. AGGARWAL)
CHAIRMAN

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