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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

O.A.NO.2256/2003

this the 12th day of May, 2004

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

Ct. Sheel Bahadur
S/o Gyani Ram,
Village Modina,
District Rohtak (Haryana)

...Applicant
(By Advocate: Sh.Neeraj Goel for Sh.Sachin Chauhan)

Versus

1. Ministry of Home Affairs through,
Secretary,
New Delhi-110001.
2. The Joint Commissioner of Police,
(Northern Range), PHQ,
I.P.Estate, New Delhi.
3. DCP (North Dist.),
Civil Lines, Delhi.

...Respondents.
(By advocate: Mrs.Sumedha Sharma)

O R D E R (ORAL)

Shri Justice V.S.Agarwal:

The applicant is a Constable in Delhi Police. Disciplinary proceedings were initiated and the disciplinary authority had imposed the following penalty on the applicant:-

These facts cannot be ignored. In trial at court, the burden of proof is beyond reasonable doubt, however in D.E. the scope and depth of proof is much different. The acts & perception of a police officer are equally important. These acts of the defaulters are unbecoming of them as Police Officers & have lowered the faith of public in police. Hence I find no merit in their contention & award them a punishment of forfeiture of their 4 years approved service permanently for a period of 4 years

18 Ag

entailing reduction in the pay of defaulter H.C. Laxmi Chand, No.77/N from Rs.4050/- P.M. to Rs.3710/- P.M. in the time scale of pay Rs.3200-85-4900. The defaulter Constable Sheel Bahadur is under going a major penalty of forfeiture of his two years of approved service temporarily entailing reduction in his pay from Rs.3575/- P.M. to Rs.3425/- P.M. w.e.f. 13.9.2001. In this case his pay is hereby reduced from Rs.3425/- P.M. to Rs.3125/- P.M. with immediate effect. Both the punishment of defaulter Constable Sheel Bahadur, No.736/N (now 593/N) will run concurrently. They will not earn increments of pay during the period of reduction and after the expiry of the penalty period the reduction will have effect of postponing of their future increments of pay. The suspension period of defaulter H.C. Laxmi Chand, No.77/N from 6.6.95 to 12.2.2001 and the suspension period of defaulter Constable Sheel Bahadur, No.736/N (now 536/N) from 6.6.95 to 7.12.98 are hereby decided as period not spent on duty for all intents and purposes."

2. The applicant preferred an appeal, which seems to have dismissed. By virtue of the present application, he seeks to assail the impugned orders passed by the disciplinary as well as the appellate authorities.

3. The petition is being contested.

4. During the course of the submission, learned counsel for the applicant contends that the penalty awarded is contrary to the provisions of Rule 8(d)(ii) of Delhi Police (Punishment and Appeal) Rules.

5. Taking up the plea of the learned counsel for the applicant pertaining to Rule 8(d)(ii) of the Rules referred to above, reliance is being placed on the

As Ag

decision in the case of Shakti Singh vs. Union of India (C.W.P.No.2368/2000) decided on 17.9.2002 wherein the Delhi High Court while construing the said rule, 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."

6. Identical is the position herein and when the present case is examined in the light of the decision in the case of Shakti Singh (supra) referred to above, it is obvious that it would be a penalty awarded contrary to Rule 8(d)(ii) of the Rules referred to above.

7. Resultantly we quash the impugned orders and direct that the disciplinary authority may pass a fresh order in accordance with law.


(S.A. Singh)
Member (A)


(V.S. Aggarwal)
Chairman

/kdr/