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Central Administrative Tribunal, Principal Bench

Original Application No.2689 of 2003

New Delhi, this the 10th day of February, 2004

Hon'ble Mr. Justice V.S. Aggarwal, Chairman

Hon'ble Mr. S.K. Naik, Member (A)

SI Ajay Kumar No.D/1241
S/o Shri Yog Raj Singh
R/o Village: Jonti
P.S. Kanjhawala, Delhi-41

....Applicant

(By Advocate: Shri Raj Singh)

Versus

1. Lieutenant Governor
through Principal Secretary,
Players Building,
I.P. Estate, Delhi
2. The Commissioner of Police,
Delhi Police Headquarters,
I.P. Estate, New Delhi
3. The Joint Commissioner of Police.
New Delhi Range,
Delhi Police Headquarters,
I.P. Estate, New Delhi

....Respondents

(By Advocate: Shri Ajesh Luthra)

O R D E R (ORAL)

By Justice V.S. Aggarwal, Chairman

The applicant is a Sub-Inspector in Delhi Police. He faced disciplinary proceedings and the disciplinary authority imposed the following penalty:

"Therefore taking into consideration the quantum of misconduct/lapse as discussed above, I award the punishment of forfeiture of three years approved service permanently for a period of three years to delinquent SI Ajay Kumar, No.D-1241 by entailing reduction in his pay by 3 stages from Rs.6375/- to Rs.5850/- and punishment of one year approved service permanently for a period of one year to delinquent Inspr. Ran Singh Dogra, No. D-I/895 by entailing reduction in his pay by one stage from Rs.8300/- to Rs.8100/-. They will not earn increment of pay during the period of reduction and on expiry of this period the reduction will have the effect on postponing of their future increment. As delinquent SI Jagbir Singh No.D-1282 did not route through the requisition of seeking opinion from prosecution branch through his SHO/ACP, his conduct is censured for committing





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procedural lapse."

He preferred an appeal which has since been dismissed on 23.4.2003.

2. By virtue of the present application, the applicant seeks quashing of both the orders passed by the disciplinary as well as the appellate authority.

3. Without dwelling into the merits of the other contentions, the learned counsel alleged that the penalty imposed is in violation of rule 8 (d)(ii) of Delhi Police (Punishment and Appeal) Rules. Reliance is being placed on the decision in the case of Shakti Singh vs. Union of India (C.W.P.No.2368/2000) decided on 17.9.2002. The Delhi High Court was considering rule 8(d)(ii) of the said Rules in a matter in which similar penalty had been imposed. It 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. Identical is the position herein. Therefore, we allow the present application and quash the impugned orders. It is directed that disciplinary authority may, if deemed appropriate, pass a fresh order from the stage the penalty was imposed on the applicant in accordance with law. O.A. is disposed of.

¹
~~S.K. Naik~~
(S.K. Naik)
Member (A)

/dkm/

V.S. Aggarwal

(V.S. Aggarwal)
Chairman