

(11)

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH: NEW DELHI

OA NO.2980/2003

New Delhi this the 28<sup>th</sup> September, 2004.

HON'BLE MR.JUSTICE V.S.AGGARWAL, CHAIRMAN  
HON'BLE MR.S.A.SINGH, MEMBER(A)

Shri Ubraj Singh,  
S/o Late Shri Agnu Singh,  
Inspector (D-1/716)  
R/o AE-114, Shalimar Bagh,  
Delhi.  
(By advocate: Shri Man Mohan Sharma)

...Applicant.

Versus

The Commission of Police,  
Delhi Police, PHQ, Delhi.  
(By Advocate: Shri Om Prakash)

...Respondent.

ORDER(ORAL)

By Mr.Justice V.S.Aggarwal:

The applicant by virtue of the present application seeks to assail the order passed by the disciplinary authority on 13.12.2001 whereby the following penalty had been imposed:

"In view of the above discussion, I am not convincing with the representations submitted by both the defaulters. I, therefore, award the punishment of forfeiture of five years approved service for a period of five years with cumulative effect entailing subsequent reduction in pay to Inspr. Ubraj Singh No.D-1/716 and forfeiture of one year approved service for a period of one year with cumulative effect entailing subsequent reduction in pay to Constable Narinder Kumar No.1727/Sec. Accordingly the pay of Inspr. Ubraj Singh No.D-1/716 and Constable Narinder Kumar No.1727/Sec. are reduced by five/one stages from Rs.8100 per month to Rs.7100 and Rs.3800 per month to Rs.3725 per month respectively from the date of issue of this order. They will not earn increments 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."

2. He also seeks to assail the order passed by the appellate authority dismissing his appeal.

3. Learned counsel for the applicant contended that the penalty awarded is contrary to the provisions of Rule 8(d) (ii) of Delhi Police (Punishment and Appeal) Rules. In support of his contention, he relies upon the decision of Delhi High Court



in the case of Shakti Singh vs. Union of India (C.W.P.No.2368/2000) decided on

17.9.2002 in which the following penalty awarded :

"The charge leveled against Inspr. Shakti Singh, No.D-1/231 is fully proved....

... Thus, the pay of Inspr. Shakti Singh, 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 future increments of pay."

4. The Delhi High Court held that such penalty violates Rule 8(d) (ii) of the Delhi Police (Punishment and Appeal) Rules because the service of the applicant has been dispensed with resulting in reduction of his pay and his pay was further reduced by five stages. The following order of the High Court in this regard reads:

"Rule 8(d) (ii) of the said Rules is disjunctive in nature. It employ the word 'or' and not 'and'.

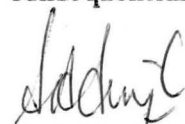
Pursuant to and/or in furtherance of the said Rules, either reduction in pay may be directed or increment or increments, which may again either permanent or temporary in nature be directed to be deferred. Both orders cannot be passed together.


"Rule 8(d) (ii) of the said Rule 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."

5. The findings of the given binds this Tribunal and need not be over-emphasised. Keeping in view the said fact, on this short ground and without dwelling into merits of the matter, we quash the impuged order and direct the disciplinary authority who may, if so likes, pass a fresh order in accordance with law. The applicant would be entitled to consequential benefits.

  
(S.A.Singh)  
Member(A)

  
(V.S.Aggarwal)  
Chairman