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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.81/2003

New Delhi, dated this the 6th day of August, 2003

Hon'ble Shri Justice V.S.Agarwal, Chairman
Hon'ble Shri S.K.Naik, Member(A)

Const. Janardan Tiwari
A-480, Nehru Vihar
(Timarpur), Delhi-110 054 .. Applicant
(Shri Arun Bhardwaj, Advocate)

versus

1. Commissioner of Police
Police Hqrs., IP Estate, New Delhi
2. Addl. Commissioner of Police
PCR & Communication
PHQ, IP Estate, New Delhi
3. Addl. Deputy Commissioner
PCR, Complex Model Town
New Delhi-110 009 .. Respondents

(Shri Ajesh Luthra, Advocate)

ORDER(oral)

Shri Justice V.S.Agarwal

The applicant is a constable in Delhi Police. The Enquiry Officer had framed the following charge:

"You, Ct. Janardan Tiwari, No.380/L, are hereby charged for the act of grave misconduct and unbecoming of a police official. The fact and reasons for framing this charge on you ar as under:-

You, being a Government servant, picked up a quarrel with police officers of Police Station Timar Pur who were on duty at the polling booth No.39, located at MM.C.Boys Primary School, Timar Pur, Delhi. In this connection, a criminal case vide F.I.R. No.358/93 was registered against you and your family members. You were arrested and bailed out in this case.

Further, you actively campaigned for a candidate of Cong.(I) Mr. Hari Shankar Gupta during the Assembly Election held on 06.11.1993 in Delhi.

Your aforesaid act renders you liable for an action under Section 21 Delhi Police Act, 1978."

2. In pursuance of the report of the Enquiry Officer, the disciplinary authority, acting upon the same, imposed the following penalty on the applicant:

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"Accordingly, I, Dr. P.S.Bhushan, Addl. DCP/PCR, Delhi do hereby order that the pay of Const. Janardan Tiwari, No.2591/PCR is reduced by three stages from Rs.4350/- per month to Rs.4125/- per month in the time scale of pay for a period of three years with immediate effect. It is further directed that he will not earn increments of pay during the period of reduction and that on the expiry of this period the reduction will have the effect of postponing his future increments of pay. His suspension period is also decided as period not spent on duty for all intents and purposes."

Appeal filed by the applicant has been rejected.

3. By virtue of the present application, orders passed by the disciplinary authority as well as the learned appellate authority are being questioned.

4. Besides other pleas, with which we are not dwelling into, learned counsel for applicant has raised two arguements; (a) penalty imposed violates Rule 8(d)(ii) of the Delhi Police (Punishment & Appeal) Rules, 1980 and (b) certain extraneous factors have been taken into consideration while imposing the penalty.

5. So far as the first contention is concerned, our attention has been drawn to the decision of the Delhi High Court in the case of Shakti Singh Vs. UOI in CWP No.2368/2000 decided on 17th September, 2000. A similar question came up before the High Court while dealing with Rule 8(d)(ii) of the Rules referred to above and it was held as under:

"Rule 8(d)(ii) of the said Rules is disjunctive in nature. It employs 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 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. Learned counsel for respondents, however, contended that in the present case, it is not forfeiture of service and therefore the aforesaid decision will not apply. We have no hesitation in rejecting the said contention because in the case of Shakti Singh (supra) the penalty imposed was identical to present controversy as seen from the penalty extracted above.

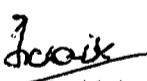


7. Identical is the position herein. In the hierarchical system as it exists today, we have no option but to follow the decision of the Delhi High Court. Resultantly on the ratio decidendi of the decision of Shakti Singh, the impugned orders necessarily must be quashed.

8. As regards the second contention, our attention has been drawn to the fact that certain extraneous factors have gone into the order that has been passed, while the charge framed was with respect to the charge as reproduced above. We hope that the disciplinary authority while passing the order will keep the said fact in mind.

9. Resultantly, the OA is allowed and impugned orders are quashed. Disciplinary authority may, as per law, pass fresh orders. Consequential benefits, if any, shall be awarded to the applicant.

10. We make it clear by abundant caution that we are not expressing our opinion on any other pleas taken.


(S.K. Naik)

Member(A)


(V.S. Aggarwal)

Chairman

/gtv/