

Central Administrative Tribunal, Principal Bench

Original Application No. 129 of 2003

New Delhi, this the 25th day of June, 2003

Hon'ble Mr. Justice V.S. Aggarwal, Chairman
Hon'ble Mr. S.K. Naik, Member(A)

Constable Vijay Veer Singh No. 1336/SEC.
Presently posted in Security Unit
E-Block, New Delhi

.... Applicant

(By Advocate: Shri G.S. Rana)

Versus

1. Union of India
Through its Chief Secretary,
Through Additional Commissioner of Police Security,
New Delhi.
2. Additional Deputy Commissioner of Police/Security,
New Delhi.
3. Inspector Dharampal, No. D-I/225
(Now ACP) Through DCP/Hqr.,
Police Head Qrs., I.P. Estate,
New Delhi

.... Respondents

(By Advocate: Shri Saurabh Ahuja, proxy for Shri Ajesh Luthra)

O R D E R (ORAL)

By Justice V.S. Aggarwal, Chairman

The applicant is a Constable in Delhi Police.

The disciplinary authority imposed the following penalty on him:

"Keeping in view the overall facts and circumstances of the case, there is no reason to disbelieve the findings of the E.O. Therefore, I, Paldan, Addl.DCP/Security, New Delhi, hereby order/award a punishment of forfeiture of two years approved service permanently for a period of two years to Const.Vijay Veer Singh No.1336/Sec. Accordingly his pay is reduced by two stages from Rs.3800/- PM to Rs.3650/- PM in time scale of pay for a period of two years with immediate effect. 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 of his future increments of pay."

2. The applicant preferred an appeal which was dismissed by the appellate authority on 8.10.2002.



3. It becomes unnecessary for us to dwell into any other controversy because it has been asserted that the penalty imposed contravenes Rule 8(d)(ii) of Delhi Police (Punishment and Appeal) Rules, 1980.

4. The Delhi High Court had gone into the similar controversy as is being agitated before us in the case of Shakti Singh vs. Union of India (C.W.P. No. 2368/2000) decided on 17.9.2002 and while interpreting Rule 8(d)(ii) of the Rules referred to above, recorded the following findings:

"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."

5. Identical indeed is the position herein. This would be tantamounting to dual punishment violating Rule 8(d)(ii) of the Rules referred to above.

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6. Resultantly we, following the dicta of the Delhi High Court in the case of Shakti Singh (supra), allow the present application and remit the case back to the Additional Deputy Commissioner of Police with a direction that if deemed appropriate, he may pass a fresh order in accordance with law and communicate it to the applicant. Keeping in view the aforesaid, we are not expressing ourselves on any other contentions raised by the applicant. O.A. is disposed of.

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


(V.S. Aggarwal)
Chairman

/dkm/