

not require registration before its being made a rule of the Court. This answers the principal question for which the reference to a Full Bench was necessitated. The case will now go back to the learned Single Judge for decision on the remaining questions.

MEHAR SINGH, C.J.—I agree.

HARBANS SINGH, J.—I agree.

B.R.T.

FULL BENCH

Before Mehar Singh, C.J., Shamsher Bahadur and Prem Chand Pandit, JJ.

RANJIT SINGH,—*Petitioner*

versus

COMMANDANT, P.A.P., JULLUNDUR AND OTHERS,—*Respondents.*

Civil Writ No. 2061 of 1963.

December 23, 1966.

Constitution of India (1950)—Art. 311(2)—Forfeiture of two years' approved service permanently and consequent reduction in pay—Whether amounts to reduction in rank.

Held, that the forfeiture of two years' approved service permanently and consequent reduction in pay of a Head Constable does not amount to reduction in rank within the meaning of sub-section (2) of Article 311 of the Constitution of India. The reason is that he continues to remain a Head Constable and in the rank of Head Constables. By the lowering of his seniority or by the lowering of his pay by two steps in the time scale, he does not cease to remain in the rank of Head Constables.

Case referred by the Hon'ble Mr. Justice Shamsher Bahadur on 8th December, 1965 to a Full Bench for decision of the important question of law involved in the case. The case was finally decided by Full Bench consisting of the Hon'ble Chief Justice Mr. Mehar Singh, the Hon'ble Mr. Justice Shamsher Bahadur and the Hon'ble Mr. Justice P. C. Pandit on 23rd December, 1966.

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Petition under Articles 226 and 227 of the Constitution of India, praying that a writ in the nature of certiorari, mandamus or any other appropriate writ, order or direction be issued quashing the orders of respondents Nos. 1 to 3 date 3rd September, 1960, 3rd June, 1961 and 8th May, 1962, respectively.

BAHADUR SINGH, ADVOCATE, for the Petitioner.

ABNASHA SINGH, ADVOCATE, for ADVOCATE-GENERAL, for the Respondents.

ORDER OF THE FULL BENCH

MEHAR SINGH, C.J.—The petitioner, Ranjit Singh, in this petition under Articles 226 and 227 of the Constitution, is Head Constable Police in the Punjab Armed Police. On February, 1960, he was posted to guard, Sutlej Bridge (Ludhiana side). At about 1.20 p.m. he left the bridge for Phillaur to purchase vegetables. Instead of going to Phillaur, he proceeded to the Punjab Armed Police Headquarters at Jullundur Cantt., where he reached at about 2.30 p.m. and had a talk with Sub-Inspector Balbir Singh, the posting clerk in regard to his transfer. He returned to the Sutlej Bridge at about 3.45 p.m. and recorded a false entry in the daily diary that he had come back after performing his duties, that is to say, after making purchases from Phillaur. An enquiry was held into the charge resulting from this conduct of the petitioner. The Enquiry Officer, on the evidence, found against the petitioner. On September 3, 1960, the Commandant of the Punjab Armed Police at Jullundur Cantt., on those findings ordered the forfeiture permanently of two years' approved service of the petitioner, reducing his pay from Rs. 66 to Rs. 60 per mensem, with a direction that during the period of suspension the petitioner was to draw one-half pay and full allowances already ordered separately. The departmental appeal and revision of the petitioner failed.

The petitioner then filed the present petition under the Articles stated, questioning the constitutional validity of the order made against him on the ground of non-compliance with sub-article (2) of Article 311 of the Constitution, because, he says, the penalty of forfeiture of service and reduction of pay in his case amounts to reduction in rank, and it has been imposed without complying with the aforesaid constitutional provision. This case first came for hearing before my learned brother, Shamsheer Bahadur J., who, on December 8, 1965, referred it for hearing by a larger Bench because of conflict

of authority on the question : *Raghunath Sabota v. The State* (1) and *Rupnarain Singh v. State of Orissa* (2) having taken the view that reduction by way of punishment to a lower stage in the same time-scale of pay amounts to reduction in rank within the meaning of sub-article (2) of Article 311, and *Badri Partap Gupta v. State of Rajasthan* (3) and, in this Court, *Faqir Chand v. Senior Superintendent of Police, Ferozepore*, Letters Patent Appeal No. 83 of 1960, decided on January 1, 1961, by a Division Bench consisting of Khosla C.J. and Dulat J., having taken the contrary view.

In the Punjab Police Rules, 1934, Volume II, Chapter XVI, rule 16.1 deals with departmental punishments, and at serial No. 2 is the punishment of 'Reduction' and at No. 3 the punishment of 'stoppage increment or forfeiture of approved service for increment'. Rule 16.4(1) explains in detail the meaning and scope of the punishment of 'Reduction' and reads thus

"16.4(1) A police officer may be reduced (a) to a lower rank (except in the case of sergeants and of constables on the time-scale); (b) from the selection grade of a rank to the time-scale of the same rank; (c) if in a graded rank, to a lower position in the seniority list of his grade or to a lower grade in this rank. A police officer so reduced shall be placed in the time-scale to which he is reduced, whether from higher rank or from the selection grade of the same rank, at the point to which his approved service entitles him, but below the efficiency bar, if any. An officer reduced in rank shall not be placed in the selection grade of the rank to which he is reduced."

This case is not concerned with categories (a), and (b) as in this sub-rule. Category (c) deals with two cases, both in graded rank. The first case is where the reduction is to a lower position in the seniority list of a police officer's grade and the second case is of reduction to a lower grade in a police officer's rank. So category (c) starts with the basic assumption that in a rank there may be more grades or scales of pay than one. Second part of his category

(1) I.L.R. (1954) Cuttack 684.

(2) A.I.R. 1959 Orissa 167.

(3) A.I.R. 1958 Raj. 239.

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makes clear a case of reduction where a police officer retaining his rank is reduced to a grade lower than in which he was, and the first part concerns where his position is lowered in the seniority in the grade of the rank in which he is. The sentence—'A police officer so reduced shall be placed in the time-scale to which he is reduced'—obviously refers to categories (a) and (b), for in category (c) in the first case there is lowering in the same time-scale of position of seniority, and in the second case there is lowering from a higher time-scale grade to a lower time-scale grade. Rule 10.88, (6) in Chapter X of the Punjab Police Rules, 1934, Volume I, says that "When forfeiture of approved service of an officer is ordered his name shall be struck out from its original position and re-entered in the particular place at which it should appear, after deducting the amount of approved service forfeited, a reference to the Order Book being given in the column of remarks over the signature of the Superintendent." This means that forfeiture of two years' approved service permanently in the case of the petitioner lowers him in seniority by two steps according to this rule. The petitioner's pay having been reduced by Rs 6 on account of forfeiture of this two years' approved service permanently, he obviously has been lowered in the time-scale of his grade of pay by those two steps. This is a case of such lowering after the increments had been earned and is not a case of future stoppage of increments. So, in so far as the petitioner is concerned, by the impugned order (a) his seniority has been lowered by two steps, and (b) he has been lowered by two steps in the time-scale of his pay. The first of these results is the punishment of 'Reduction' under first part of category (c) in sub-rule (1) of rule 16.4. The matter of forfeiture of approved service for increment is dealt with in rule 16.5 and sub-rule (2) of that rule says—"approved service for increment may be forfeited, either temporarily or permanently, and such forfeiture may entail either the deferment of an increment or increments or a reduction in pay. The order must state whether the forfeiture of approved service is to be permanent; or, if not, the period for which it has been forfeited;" Such reduction in pay under this sub-rule and according to punishment No. 3 in rule 16.1 is not 'reduction' under punishment No. 2 in that rule, read with rule 16.4(1).

The argument on the side of the learned counsel for the petitioner is based on the decision of their Lordships of the Supreme Court in *Parshotam Lal Dhingra v. Union of India* (4). On facts that case was

(4) A.I.R. 1958 S.C. 36.

different, but it is the observations of their Lordships that are relied upon in support of the case of the Petitioner. At page 45 of the report in paragraph 19, their Lordships referred to rule 40 of the 1930, Classification Rules and the penalties that may, for good and sufficient reason, be imposed upon members of the services, the penalties being seven in number, and the major penalties referred to are these—(iii) Reduction to a lower post or time-scale, or to a lower stage in a time-scale, (vi) Removal from the Civil Service of the Crown which does not disqualify from future employment, (viii) Dismissal from the Civil Service of the Crown, which, ordinarily disqualifies from future employment.” The argument urged before their Lordships, as appearing in paragraph 15, was —“Those expressions, it is urged, have been taken from the service rules, where they were used to denote the three major punishments and it is submitted that those expressions should be read and understood in the same sense and treated as words of art., and in paragraph 24, at page 47, their Lordships observed—“In other words the substance of the protection provided by the rule 55 of the 1930 Classification Rules which required a special procedure to be followed before the three major punishments of dismissal, removal or reduction in rank out of the several punishments enumerated in rule 49 were bodily lifted, as it were, out of the Rules and embodied in the statute itself so as to give a statutory protection to the Government servants. These statutory protections have now become constitutional protections as a result of the reproduction of the provisions of section 240 in Articles 310 and 311 of our Constitution.” This was again reiterated by their Lordships in *Khem Chand v. Union of India*, (5). What is pressed on behalf of the petitioner by his learned counsel is that their Lordships have taken the three main penalties from the service rules as giving and defining the meaning of the words ‘dismissal, removal, or reduction in rank, in sub-article (2) of Article 311, and the expression ‘reduction in rank’ has to be read the same as penalty (iii), that is to say, ‘Reduction to a lower post or time-scale, or to a lower stage in a time-scale’, and in the present case the petitioner has been reduced two steps lower in his time-scale. The learned counsel for the petitioner points out that in the matter of seniority there has been reduction in the case of the petitioner in view of first part of category (c) in sub-rule (1) of rule 16.4, and there has been reduction again according to the ordinary service rules, in view of the observations of their Lordships in *Parshotam*

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Lal Dhingra's case because he has been lowered by two steps in his time-scale. Where their Lordships discuss the question of reduction in rank, there is no reference to reduction to a lower stage in the time-scale of a Government servant. In spite of this, the learned counsel has pressed his argument and has said that whether the case is considered under sub-rule (1) of rule 16.4 or under the dictum of their Lordships in *Parshotam Lal Dhingra's case*, this is a clear case of reduction in rank, and the provisions of sub-article (2) of article 311 not having been complied with, the order must be quashed.

The soundness or otherwise of the contention of the learned counsel for the petitioner depends upon the meaning to be given to the word 'rank' as used in sub-article (2) of Article 311. No doubt some of the dictionary meanings of the word do tend to support the stand urged on the side of the petitioner, but in view of the meaning given to this word by their Lordships of the Supreme Court in the *High Court Calcutta v. Anmal Kumar Roy* (6), the ordinary meanings of that word cannot be taken, and the meanings of the word that have to be applied are those given by their Lordships in the judgment of that case. In that case a Munsif in the West Bengal Civil Service (Judicial) having been passed over for promotion to the post of a Subordinate Judge, when he came to be promoted to that post, he stood eight places below as compared to the place where he would have been had he promoted in his own turn at the proper time. It was urged that his lowering of seniority by eight places in this manner was reduction in rank. Their Lordships observed,—

"In our opinion, there is no substance in this contention because losing places in the same cadre, namely, of subordinate Judges does not amount to reduction in rank, within the meaning of Article 311(2). The plaintiff sought to argue that 'rank', in accordance with dictionary meaning signifies 'relative position or status or place, according to Oxford English Dictionary. The word 'rank' can be and has been used in different senses in different contexts. The expression 'rank' in Article 311(2) has reference to a person's classification and not his particular place in the same cadre in the hierarchy of the service to which he belongs. Hence, in the context of the Judicial Service of

West Bengal, 'reduction in rank' would imply that a person who is already holding the post of a Subordinate Judge has been reduced to the position of a Munsif, the rank of a Subordinate Judge being higher than that of a Munsif. But Subordinate Judges in the same cadre hold the same rank, though they have to be listed in order of seniority in the Civil List. Therefore, losing some places in the seniority list is not tantamount to reduction in rank".

This was again approved by their Lordships in the *Divisional Personnel Officer, Southern Railway, Mysore v. S. Raghavendrchar*, (7). So it is the meaning of the word 'rank' as given by their Lordships in sub-article (2) of Article 311 that negatives the case of the present petitioner in spite of his losing two places in seniority and also losing two steps in his time-scale by the forfeiture of two years of his pay permanently. The reason is that he remains still Head Constable and in the rank of Head Constables. By the lowering of his seniority or by the lowering of his pay by two steps in the time-scale he does not cease to remain in the rank of Head Constables. He is still there very much in that rank, and merely because he has lost seniority or has been lowered by two steps in the time-scale of his pay, which slightly lowers him in his own rank and it is reduction in so far as it affects his seniority under sub-rule (1) of rule 16.4, it is not reduction in rank as that expression is used in sub-article (2) of Article 311 of the Constitution, inasmuch as it does not lower the rank of the petitioner. On this consideration, the petition of the petitioner fails and is dismissed, but, in the circumstances of the case, there is no order in regard to costs.

SHAMSHER BAHADUR, J.—I agree.

PANDIT, J.—I have gone through the judgment prepared by my Lord the Chief Justice and agree with him that there was no reduction in rank and Article 311 (2) of the Constitution was not attracted in the case of the petitioner. But there is one matter in which, if I may say so with great respect, I am unable to concur and that is that simply because the petitioner had lost seniority in his grade, it would amount to "reduction" under sub-rule (1) of rule 16.4 of the Punjab Police Rules, 1934, Volume II. Admittedly, the case of the petitioner

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is not covered by categories (a) and (b) of this sub-rule. In my opinion, it would not fall even under the first part of category (c), as held by the learned Chief Justice, because category (c) applies only to the case of a 'graded rank'. It has not been shown by the petitioner that his was a 'graded rank', that is to say, that in the case of Head Costables, there were different grades or time-scales. That being so, even category (c) of rule 16.4 (1) would not apply to his case. But assuming for the sake of argument that the petitioner's case was covered by the first part in category (c), as held by the learned Chief Justice, it would be merely 'reduction' but not 'reduction in rank' as contemplated by Article 311 (2) of the Constitution, inasmuch as the petitioner remains a Head Constable and is not reduced to a lower rank. The reasons for coming to this conclusion have already been detailed by my Lord the Chief Justice, with which I entirely agree.

This writ petition, consequently, deserves to be dismissed. The parties may, however, bear their own costs.

B.R.T.

