
(2008) 09 DEL CK 0242

In the Delhi High Court

Case No : Writ Petition (Civil) No. 4579 of 1998

Shri Mangi Lal Meena, Ex-Sub-inspector

APPELLANT

Vs

Lt. Governor and Others

RESPONDENT

Date of Decision : 10-09-2008

Acts Referred:

Administrative Tribunals Act, 1985 — Section 19

Citation : (2008) 09 DEL CK 0242

Hon'ble Judges : Madan B. Lokur, J;J.R. Midha, J

Bench : Division Bench

Advocate : M.P. Raju and Y. Kalivi Zhimomi, for the Appellant; Nemo, for the Respondent

Final Decision : Dismissed

Judgement

Madan B. Lokur, J.—The question for our consideration is whether the departmental inquiry held against the Petitioner was in accordance with law or not. We are in agreement with the view expressed by the Central Administrative Tribunal (the Tribunal) that there was no error in the conduct of the inquiry.

2. The Petitioner was a sub-inspector in the Delhi Police and a departmental inquiry was held against him on the following charges:

(i) On 9.9.1988 while he was posted at P.S. Lajpat Nagar, he failed to report the action taken on D.D. entry No. 14-A dated 9.9.1988 which was entrusted to him for enquiry.

(ii) On 9.9.1988 at about 10.30 P.M. the applicant along with Shri Sandeep Mehta and local police visited premises No. E-84, Lajpat Nagar, to the residence of one Shri Sudershan Kumar Sehgal and misbehaved and manhandled his brother and family members. He also ill-treated Shri Sehgal brothers and one Shri Dwarka Nath on the same night.

3. The inquiry officer found the Petitioner guilty of misconduct and his report was

accepted by the Disciplinary Authority, who then passed an order dismissing him from service with effect from 10th August, 1990. It appears that the Petitioner was under suspension from 21st November, 1989 to 5th February, 1990 and this period was treated as not spent on duty.

4. Feeling aggrieved, the Petitioner filed an Original Application u/s 19 of the Administrative Tribunal Act, 1985 in which a large number of contentions were urged. Some of these contentions were translated into oral submissions before the Tribunal. They were all negatived by the Tribunal and that is how the Petitioner is now before us.

5. Learned Counsel for the Petitioner advanced three contentions before us but we are not impressed with any one of them. It was firstly submitted (without much vehemence) that there was no evidence on the basis of which the Petitioner could have been held guilty of the charges leveled against him.

6. We have gone through the evidence on record and find that as many as 13 prosecution witnesses were examined followed by 9 defence witnesses. On a reading of the evidence, it is clear that this was not a case of no evidence as contended by learned Counsel. The persons with whom the Petitioner is alleged to have misbehaved entered the witness box and supported the complaint made against him. In our opinion, the first contention urged by the Petitioner deserves to be rejected.

7. It was then contended by learned Counsel that the preliminary inquiry report was not supplied to the Petitioner and, therefore, he was unable to effectively cross-examine the witnesses. We find that no such objection was raised by the Petitioner during the inquiry proceedings. The Petitioner had access to the record of the preliminary inquiry and he had cross-examined the witnesses on that basis. It is true that the prosecution witnesses merely reiterated what they had stated in the preliminary inquiry and did not make a detailed statement in the examination-in-chief. But, as far as we are concerned, this did not cause any prejudice to the Petitioner nor did the Petitioner complain against this procedure. Perhaps the Inquiry Officer resorted to this procedure to save time but as long as he made available to the Petitioner the statement of the witnesses recorded in the preliminary inquiry, and as long as the Petitioner could cross-examine the witnesses on the basis of those statements, no prejudice was caused to him and none has been shown to us. Therefore, we do not see any material irregularity having been committed by the Inquiry Officer in following the procedure that he did.

8. Learned Counsel for the Petitioner relied on a decision of the Supreme Court in *The State of Punjab Vs. Bhagat Ram*, but we find that this case is not at all applicable to the present situation. In that case it was found that the statements of the witnesses during the preliminary inquiry were not supplied to the delinquent official but only a synopsis was given. In that context, it was held that the delinquent official was not given a reasonable opportunity to defend himself.

The fact situation in the present case is different in as much as the Petitioner had access to the statements of persons examined in the preliminary inquiry.

9. The third contention of learned Counsel for the Petitioner is that the Inquiry Officer behaved as the prosecuting officer and, therefore, the Petitioner was prejudiced. That the Petitioner must show prejudice (and not merely allege it) as is now settled and in this connection we may refer to the judgment of the Supreme Court in Kashinath Dikshita Vs. Union of India (UOI) and Others, We find that the Petitioner did not raise any such contention relating to prejudice before the Tribunal and so we do not think it appropriate to permit him to raise this issue for the first time in the present writ petition.

10. Moreover, we find that it is the Petitioner's submission that merely because the Inquiry Officer questioned the witnesses, that by itself vitiated the inquiry. This is too farfetched a proposition to accept. Learned Counsel for the Petitioner has not pointed out any specific question or set of questions which could lead to the belief that the Inquiry Officer had exceeded his jurisdiction. The contention is too broad for acceptance.

11. No other point has been urged before us.

12. We do not find any merit in the writ petition. It is accordingly dismissed.