

(2007) 02 DEL CK 0141
In the Delhi High Court
Case No : WP (C) 4885 of 2003

TUKI RAM

APPELLANT

Vs

Union of India (UOI) and Others

RESPONDENT

Date of Decision : 23-02-2007

Acts Referred:

Constitution of India, 1950 — Article 226
Delhi Police (Punishment and Appeal) Rules, 1980 — Rule 16

Citation : (2007) 02 DEL CK 0141

Hon'ble Judges : Mukul Mudgal, J;Aruna Suresh, J

Bench : Division Bench

Advocate : Arun Bhardwaj, for the Appellant; Arvind Gupta, for the Respondent

Final Decision : Dismissed

Judgement

Mukul Mudgal, J.—Rule DB. This writ petition is taken up for final hearing with the consent of the learned Counsel for the parties. This writ petition challenges the order of the Central Administrative Tribunal (hereinafter referred to as the "CAT") dated 10th December, 2002. The petitioner Tuki Ram, who at the relevant time was working as a Constable in Delhi Police, was accused of demanding an illegal gratification of Rs. 200/- in respect of a quarrel between neighbours reported to the police which was amicably settled between the complainant and the complaint against. Nevertheless, the allegation was that the petitioner demanded and secured illegal gratification of Rs. 200/-. The Enquiry Report is based on interalia the testimony of PW1 Prem Lata, from whom the gratification of Rs. 200/- was demanded, and her father PW2 Sunder Lal. The CAT has held that there was some evidence against the petitioner and accordingly it was not open to the CAT to re-appreciate the evidence in O.A. proceedings.

2. The learned Counsel for the petitioner submitted that the present case is a case of "no evidence". Having perused pages 32 and 33 of the writ petition which disclose the testimony of PW1 and PW2, we are satisfied that this is not a case of "no evidence" and the action against the petitioner is based on the

testimony of aforesaid two PWs.

3. Since the Tribunal has dealt with the evidence, non-re-appreciation of the evidence by the CAT is no ground to interfere with the order of the CAT under Article 226 of the Constitution by this Court, particularly, when we have perused the pages 32 and 33 of the writ petition to find that there was testimony of PWs 1 and 2 against the petitioner.

4. The learned Counsel for the petitioner has further submitted that the petitioner has not been identified by PW1 Ms. Prem Lata. We have perused the testimony of PW1 and PW2 and we are of the view that the petitioner had indeed been identified by the witnesses and the testimony of PW1 and PW2 clearly demonstrates the culpability of the petitioner.

5. Finally, the validity Rule 16 (i) of Delhi Police (Punishment & Appeal) Rules, 1980, has been challenged. Rule 16(i) reads as follows:

A police officer accused of misconduct shall be required to appear before the disciplinary authority, or such Enquiry Officer shall prepare a statement summarizing the misconduct alleged against the accused officer in such a manner as to give full notice to him of the circumstances in regard to which evidence is to be regarded. Lists of prosecution witnesses together with brief details of the evidence to be led by them and the documents to be relied upon for prosecution shall be attached to the summary of misconduct. A copy of the summary of misconduct and the lists of prosecution witnesses together with brief details of the evidence to be led by them and the documents to be relied upon for prosecution will be given to the defaulter free of charge. The contents of the summary and other documents shall be explained to him. He shall be required to submit to the enquiry officer a written report within 7 days indicating whether he admits the allegations and if not, whether he wants to produce defense evidence to refute the allegations against him.

6. We have perused the aforesaid provision which far from permitting the Enquiry Officer to act as a prosecutor is in fact designed to satisfy the principle of natural justice. The Enquiry Officer thus in accordance with the provision of Rule 16, in fact, is required to disclose to the delinquent the contents of the documents, make a summary of misconduct, list of witnesses with brief details, evidence to be led by them, and explain the contents of the summary and other documents. The above provision thus nowhere places the Enquiry Officer in the role of prosecutor. Thus, the plea of the petitioner is wholly without substance and is accordingly rejected. Consequently, there is no merit in this writ petition and the same is dismissed.