

*** HIGH COURT OF DELHI : NEW DELHI**

+ Writ Petition (Civil) No. of 2093/2001

%

Decided on: October 27, 2009

Ex. Constable Shri Bhagwan
S/o Shri Munshi Ram
Aged about 35 years
Previously employed in Delhi Police
R/o 29/16, Rajender Nagar
Near Telephone Exchange
Sonipat, Haryana.

..... Petitioner

Through: Mr. Shyam Babu, Adv.

versus

1. Union of India
Through its Secretary
Ministry of Home Affairs
North Block
New Delhi.

2. Commissioner of Police
Police Headquarters
I.P. Estate, New Delhi.

3. Addl. Commissioner of Police
Police Control Room
Police Headquarters
I.P. Estate, New Delhi.

4. Deputy Commissioner of Police
Police Control Room
Police Headquarters
I.P. Estate, New Delhi.

..... Respondents

Through: Ms. Ruchi Sindhwani, Adv.

AND

2. Writ Petition (Civil) No. of 2094/2001

Ex. Head Constable Manjeet Singh
S/o Shri Sher Singh
Aged about 37 years
Previously employed in Head Constable
in Delhi Police No. 1380/PCR
R/o 42, Vikas Vihar
Chander Vihar near Virdi Property Dealer
Nilothi Extn.
Nangloi, New Delhi.

..... Petitioner

Through: Mr. Shyam Babu, Adv.

versus

1. Union of India
Through its Secretary
Ministry of Home Affairs
North Block
New Delhi.

2. Commissioner of Police
Police Headquarters
I.P. Estate, New Delhi.

3. Addl. Commissioner of Police
Police Control Room
Police Headquarters
I.P. Estate, New Delhi.

..... Respondents

Through: Ms. Ruchi Sindhwani, Adv.

Coram:

HON'BLE MR. JUSTICE MADAN B. LOKUR
HON'BLE MS. JUSTICE MUKTA GUPTA

- | | |
|--|-----|
| 1. Whether the Reporters of local papers may be allowed to see the judgment? | Yes |
| 2. To be referred to Reporter or not? | Yes |
| 3. Whether the judgment should be reported in the Digest? | Yes |

MADAN B. LOKUR, J. (ORAL)

1. The Petitioners are aggrieved by an order dated 13th November, 2000 passed by the Central Administrative Tribunal, Principal Bench in OA Nos. 739/1998 and 1896/1998.
2. One Vinod Kumar made a complaint on 21st/22nd February, 1995 to the effect that he was stopped by a PCR van and illegal gratification was demanded from him by the occupants of the PCR van, that is, Constable Shri Bhagwan and Head Constable Manjeet Singh.
3. On the basis of the complaint made by Vinod Kumar, disciplinary proceedings were initiated against the two officials.
4. When Vinod Kumar entered the witness box, he denied the incident inasmuch as he stated that he was asked to write that complaint by some officer (Inspector Balwant Singh). He could not identify Head

Constable Manjeet Singh or Constable Shri Bhagwan who were present during the enquiry proceedings. Vinod Kumar was unable to give material particulars of the incident but notwithstanding this, the Enquiry Officer held that the charge against the two officials was proved because they were unable to refute the allegation made against them.

5. The Disciplinary Authority accepted the report of the Enquiry Officer and the Petitioners were dismissed from service. A departmental appeal did not yield any fruitful result and consequently, the Petitioners approached the Tribunal for relief.

6. The Tribunal dismissed the original applications filed by the Petitioners holding that the complaint of Vinod Kumar was good enough to nail the Petitioners guilt.

7. Learned counsel for the Petitioners submits that in the absence of any evidence against his clients, there was no warrant for the departmental authorities to find them guilty nor was there any reason for the Tribunal to decide against the Petitioners.

8. Learned counsel for the Respondents sought to support the order of the Tribunal by contending that Vinod Kumar had been won over.

9. However, we find that there is a reference to another police officer and that is Inspector Balwant Singh to whom the complaint was

made by Vinod Kumar. In his deposition as PW-2 Balwant Singh fully supported the incident in terms of the complaint made by Vinod Kumar.

10. Learned counsel for the Petitioners submits that the evidence of Balwant Singh cannot be taken into consideration by us as it has not been discussed by the Tribunal. He says that it would not be appropriate for us to look into this evidence without considering the view expressed by the Tribunal on this and the remaining evidence on record.

11. In our opinion, learned counsel is right in his submission because the entire evidence is to be seen to determine whether it is a case of no evidence and if it is so then, of course, the case made out against the Petitioners by the Respondents cannot stand. However, if there is some evidence on record, this Court cannot re-appreciate the evidence and draw a conclusion different from that drawn by the departmental authorities or the Tribunal unless the conclusion arrived at is perverse.

12. In this case, the entirety of the evidence on record has not been taken into consideration by the Tribunal. Therefore, we set aside the impugned order and remand the case for reconsideration of the issues on merits.

13. The parties are directed to appear before the Tribunal on 19th November, 2009 for directions.

14. The writ petitions stand disposed of.

MADAN B. LOKUR, J

OCTOBER 27, 2009

vk

MUKTA GUPTA, J