

(2008) 09 DEL CK 0264

Delhi High Court

Case No: Writ Petition (C) No. 6139 of 2008

Union of India (UOI)

APPELLANT

Vs

Shri Yogesh Kumar, UDC in
Department of School
Educational and Literacy

RESPONDENT

Date of Decision: Sept. 5, 2008

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

Bench: Division Bench

Advocate: H.K. Gangwani, for the Appellant; None, for the Respondent

Final Decision: Dismissed

Judgement

J.R. Midha, J.

The Petitioner has assailed the order dated 10th April, 2008 passed by the learned Central Administrative Tribunal whereby a minor penalty of withholding of promotion for two years inflicted on the Respondent was quashed on the ground of violation of principles of natural justice.

2. The Respondent was working as UDC in the Department of School Education and Literacy. A charge sheet dated 18th January, 2006 was issued to the Respondent on the allegation that the Respondent along with his three colleagues went to the servant quarters of a MP flat in Feroz Shah Road where they had a drinking party and after the drinks, an argument broke out which took an ugly turn and the Respondent and his colleagues gave a beating to their colleague, Mr. B.L. Meena, who reported the matter to the Department as well as to the police. After the inquiry, by order dated 29th November, 2006, minor penalty of withholding promotion of the Respondent for a period of two years was imposed.

3. The Disciplinary Authority recorded in its order that by visiting the house of Yogesh Chowdhary and by indulging in drinking party at the residence of Yogesh Chowdhary and by accepting the hospitality of a person with whom he had official

dealings, the Respondent violated the relevant rules.

4. The charge of having official dealings with Mr. Yogesh Chowdhary and accepting the hospitality from him with whom the Respondent had official dealings was not part of the Memorandum dated 18th January, 2006. As such, the Respondent had no opportunity to show cause in respect of the said charge. The aforesaid finding of the Disciplinary Authority is extraneous to the charge sheet issued to the Respondent and, therefore, there is clear violation of the principles of natural justice. An extraneous matter which is not put to the delinquent officer cannot form the basis of penalty imposed on him.

5. We agree with the findings of the learned Tribunal that there is violation of principles of natural justice inasmuch as the Disciplinary Authority has based its finding on an extraneous matter, which was not put to the Respondent in the Memorandum.

6. The present case does not call for interference in exercise of writ jurisdiction. The writ petition is accordingly dismissed.