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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% ***Date of Decision: 16th September, 2026***# **CNR No. DLHC011363892008**+ **W.P.(C) 6962/2008**

SRI BHAGWAN

.....Petitioner

Through: Mr. Vinay Sabharwal, Adv.
versus

D.T.C.

.....Respondent

Through: Mr. Uday N. Tiwary, Mr.
Akshat Tiwary and Mr.
Saksham Gupta, Advs.**CORAM:****HON'BLE MR. JUSTICE AMIT MAHAJAN****AMIT MAHAJAN, J. (Oral)**

1. By the present petition, the petitioner challenges the award dated 14.09.2007 (hereafter '**impugned award**') passed by the learned Presiding Officer, Industrial Tribunal, Karkardooma Courts, Delhi in I.D. No. 01/04 whereby the learned Tribunal declined relief to the petitioner and upheld the order of punishment of removal from service.

2. Succinctly stated, the petitioner was appointed as a conductor with the respondent in the year 1979. A chargesheet was issued to the petitioner on 25.07.1991, *inter alia*, alleging that on 15.07.1991, when the bus was intercepted, it was found that the petitioner had collected a fare of ₹2/- from a passenger but had issued him a ticket of only ₹1/-. Further, when the cash of the conductor was checked, it was found short of ₹10/-.



3. Thereafter, an enquiry was held into the charges and the same culminated in the order dated 10.02.1992 whereby the petitioner was removed from service.

4. The respondent approached the Industrial Tribunal under Section 33(2)(b) of the Industrial Disputes Act, 1947 seeking approval of the punishment imposed on the petitioner. The said approval was granted by the Industrial Tribunal by order dated 07.03.2002. The said order was upheld by a Coordinate bench of this Court *vide* order dated 14.10.2004 in CWP 2740/2002.

5. Thereafter, an industrial dispute raised by the petitioner was referred for adjudication and the point of adjudication referred to the learned Tribunal was as follows:

“whether the action of the management in removing Sh. Sri Bhagwan S/o Sh. Jugti Ram from the services of the corporation vide its order dated 10.02.1992 is illegal and/or unjustified and if so, to what directions are necessary in this respect?”

6. The Petitioner had filed the Statement of Claim contending that the domestic enquiry was vitiated by several procedural irregularities inter alia, the list of documents and witnesses was not provided to him and he was not given due opportunity to defend his case. He further stated that the respondent did not award punishment as per its own circular dated 03.01.1966 according to which the petitioner should have been terminated only on account of three charges of cheating and the present one was only the second charge of cheating. He further claimed that the punishment awarded to him is harsh and disproportionate.

7. The Management had filed the written statement and stated that



approval of punishment had already been granted by the Industrial Tribunal *vide* order dated 07.03.2002 and stated that while this was not the third charge of cheating, the petitioner was charged with misconduct on several occasions. The record further reflects that the petitioner, on earlier occasions, was warned for misbehaving with passengers, misusing public money and punished with stoppage of next due increment for six months with cumulative effect for non-issuance of tickets despite collecting due fare from passengers.

8. By the impugned award, the learned Industrial Tribunal, upon consideration of the material before it including the orders passed in the proceedings under Section 33(2)(b) of the Industrial Disputes Act, 1947 where the enquiry was held to be proper answered the reference against the petitioner.

9. Aggrieved thereby, the petitioner has preferred the present petition.

10. While by order dated 23.09.2008, this Court had issued notice on the limited question in respect of the quantum of punishment, this Court deems it apposite to briefly take note of the merits of the case since the same is inextricably linked to the quantum of punishment.

11. The learned counsel for the petitioner submits that the learned Tribunal erred in taking note of the proceedings under Section 33(2)(b) of the Industrial Tribunal Act, 1947 to hold that the enquiry was fair and proper. He submits that the ambit of a reference under Section 10 of the Industrial Tribunal Act, 1947 is wider than that under Section 33(2)(b) of the Act.

12. He submits that the Industrial Tribunal was independently



required to adjudicate the reference on merits under Sections 10 and 11A of the Industrial Disputes Act, 1947. He further submits that the present case only involves alleged gain of ₹1/- and for the same, removal from service is a shockingly disproportionate punishment. He submits that the petitioner was unwell on the said day and had inadvertently issued ticket of a lesser denomination to the respondent.

13. *Per contra*, the learned counsel for the respondent submits that the impugned order is well reasoned and merits no interference by this Court. He submits that the validity of domestic enquiry had already been upheld in the earlier proceedings and the removal was thereafter approved under Section 33(2)(b) of the Industrial Disputes Act, 1947. He submits that the said order granting approval was also upheld by a Coordinate Bench of this Court. He submits that even otherwise, the learned Industrial Tribunal while passing the impugned award independently took note of the entirety of circumstances and any interference by this Court would essentially amount to a re-appreciation of the evidence which is not warranted in exercise of writ jurisdiction of this Court.

14. I have heard the counsel and perused the record.

15. In the present case, the petitioner has challenged the impugned award essentially on the ground that the learned Industrial Tribunal wrongly relied on the proceedings under Section 33(2)(b) of the Industrial Disputes Act, 1947 to hold that the enquiry proceedings were proper. It has further been argued that the punishment is disproportionate.

16. Before this Court adverts to examine the same, it is pertinent to



note that there is no quarrel regarding the settled position that the proceedings under Section 33(2)(b) and the subsequent adjudication of an industrial dispute cannot be equated with each other. The fact that approval was granted in the earlier proceedings does not, by itself, dispense with the adjudicatory exercise required in the substantive reference. The jurisdiction available to an Industrial Tribunal under Section 11A of the Industrial Disputes Act, 1947, where attracted, cannot be said to have disappeared merely because an order under Section 33(2)(b) of the Industrial Disputes Act, 1947 had earlier been passed.

17. Having noted thus, it is pertinent to note that the same does not further the case of the petitioner. *Firstly*, there is no bar upon any Court/Tribunal to supplement their reasoning from the observations and evidence led before a competent court of jurisdiction.

18. Even otherwise, the question before this Court is not whether the learned Tribunal could have given a more “*elaborate*” reasoning to answer the reference, but whether the conclusion ultimately reached warrants interference in exercise of the extraordinary jurisdiction under Article 226 of the Constitution.

19. In the present case, however, a perusal of the impugned order would reveal that the learned Tribunal did not only take note of the observations made in the proceedings under Section 33(2)(b) to find that the enquiry proceedings was proper but it also considered the other material on record to hold that the enquiry was proper. In doing so, the learned Tribunal considered that the only plea taken by the petitioner was that he was not given a list of witnesses and documents.



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20. The record reveals and as duly appreciated by the learned Tribunal, the respondent had received the chargesheet and had duly participated in the enquiry proceedings. The record further reveals that in his reply to the chargesheet, the petitioner admitted the charges levelled against him and voluntarily stated that he did not want any further enquiry in the matter.

21. The chargesheet further specifies that all the relevant documents annexed to the chargesheet were given to the respondent. Additionally, in the reply to the chargesheet, the workman did not ask for any documents. Consequently, as rightly appreciated by the learned Tribunal, the same only appeared to be an afterthought.

22. The learned Tribunal further appreciated that while the petitioner had taken the plea that he was unwell and had consequently inadvertently issued the ticket of a lower denomination, nothing was brought forth to substantiate his stance. The learned Tribunal further noted that the petitioner had never taken the plea or brought forth any material to show that he was medically examined after he finished his duty on the relevant date. In such circumstances, in view of the categorical admission and nothing to corroborate the illness of the petitioner, the enquiry proceedings were rightly found to be fair and proper.

23. Insofar as the quantum of punishment is concerned, the learned Tribunal noted that the punishment of removal was approved in the application preferred by the respondent under Section 33(2)(b) of the Industrial Disputes Act, 1947 and the challenge to the said order granting approval was also upheld by a Coordinate Bench of this



Court. On that occasion, the Coordinate Bench of this Court had noted that the quantum of misappropriation would lose significance as such acts would be repeated more than often.

24. While approval granted under Section 33(2)(b) of the Industrial Disputes Act, 1947 is subject to modification in exercise of power under Section 11A of the Industrial Disputes Act, 1947, the only plea taken on behalf of the petitioner is that on the said date the petitioner was unwell and had consequently issued ticket of a lower denomination being ₹1/- instead of ₹2/-. A perusal of the record would reveal that such stance was also pressed before the learned Tribunal who categorically recorded that the petitioner had not brought forth any evidence in support of his plea.

25. Furthermore, even the contention of the petitioner that this was only his second charge of cheating and consequently he should have been awarded a lesser punishment in terms of circular dated 03.01.1966 does not aid the case of the petitioner. This is because the circular in itself in its concluding paragraph provides that the procedure was being laid down as a general policy and each case of cheating would be decided on its own merits. The Circular further provides that it would be the discretion of the enquiry officer to impose a severe punishment even in the first or second case if the same was warranted.

26. Even otherwise, the Hon'ble Apex Court in the case of **Depot Manager, A.P. SRTC v. B. Swamy : (2007) 12 SCC 40** affirmed that merely because cheating was conducted for the first time was no ground to hold that the alleged act was accidental and that for the



same, punishment of dismissal from service is not disproportionate. Further, in the case of ***U.P. SRTC v. Suresh Chand Sharma: (2010) 6 SCC 555***, the Hon'ble Apex Court observed that even if the case involved misappropriation of a petty amount, the punishment of dismissal from service was appropriate.

27. The scope of judicial review over an industrial adjudication is supervisory and not appellate. A mere possibility of another view on the evidence is not sufficient.

28. In the present case, the learned Tribunal considered the fact that the domestic enquiry had already been upheld and that approval had been granted in the earlier proceedings. While the reasoning contained in the impugned award is brief, the ultimate conclusion cannot, for the reasons discussed above, be said to be one which warrants interference.

29. It is also relevant that the disciplinary action dates back to the year 1991 and the impugned award was rendered in the year 2007. The present writ petition has remained pending thereafter for a considerable period. The Court is therefore not persuaded to unsettle the disciplinary action at this stage.

30. The writ petition is, accordingly, dismissed. Pending applications, if any, also stand disposed of.

AMIT MAHAJAN, J

SEPTEMBER 16, 2026

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