IN THE HIGH COURTOF DELHIAT NEW DELHI

% ***Judgment Reserved on:30.07.2026***
Judgment Pronounced on:16.09.2026
Judgment Uploaded on: 16.09.2026

\# **CNR No. DLHC010506002017**

\+ **W.P.(C) 1239/2017 & CM APPL. 5664/2017**

DELHI TRANSPORT CORPORATION .....Petitioner

versus

BALWAN SINGH .....Respondent

Advocates who appeared in this case:

For the Petitioner :Ms. Manisha Tyagi, Advocate.

For the Respondents :Mr. K. C. Dubey, Ms. Uma Tarafdar and Mr. Lenyim Taggu, Advocates.

CORAM
HON'BLE MR JUSTICE AMIT MAHAJAN

JUDGMENT

1. By the present petition, the petitioner challenges the award dated 03.08.2016 passed by the learned Presiding Officer, Karkardooma Courts, Delhi in ID No. 05/2008 whereby the learned Tribunal though found that the enquiry proceedings were not violative of the principles of natural justice had modified the punishment from removal from service to deemed retirement from 26.09.1994.

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2. Briefly stated, the respondent had joined the services of the petitioner corporation in the year 1978 as a conductor. It is the case of the petitioner corporation that on 14.02.1993, when the bus was checked by the checking staff at around 12:50 am at the bus stop of Sangaria, three passengers were found to be alighting the bus without tickets and on enquiry, it was found that they had paid a total fare of ₹24 to the respondent but he had not issued tickets to them. Further, it is the case against the respondent workman that when the bus was checked by the checking staff, four other passengers were also found without tickets who on enquiry stated that they had paid a sum of ₹44 to the respondent workman but he had not issued tickets to them.

3. Thereafter, chargesheet was issued to the respondent workman on 26.02.1993. In the aftermath of the enquiry proceedings, the respondent was found guilty of misconduct and was removed from service on 26.09.1994. The approval application preferred by the petitioner management was allowed on 18.07.1995.

4. The respondent workman had filed a writ petition in the year 1996 challenging his termination, and the same was dismissed as withdrawn *vide* order dated 10.08.2007 with liberty to approach the labour tribunal within a reasonable time.

5. Thereafter, in the industrial dispute proceedings, the learned Labour Court *vide* order dated 04.06.2016 found that the enquiry proceeding was not in contravention of the principles of natural justice and it was found that the enquiry report was not perverse. In doing so, the learned Labour Court noted that the management had examined

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two of the raiding team members who were witnesses of the misconduct. The learned Labour Court took into account the objection taken by the respondent workman that the passengers were not examined and noted that the management had sent letters to the passengers to appear but they did not appear. The learned Labour Court also relied upon the decision of the Hon'ble Apex Court in the case of ***State of Haryana v. Rattan Singh*** **: (1977) 2 SCC 491** and noted that non examination of the passengers by the enquiry officer does not suffice to cast a dent on the case of the prosecution.

6. The learned Labour Court further noted that from the enquiry report, it transpired that the transport inspector had made a statement before the Enquiry Officer that when he along with other raiding team members had checked the bus, they had found three passengers alighting the bus without tickets and upon asking it was found that the respondent workman had not issued tickets to them. It was noted that the *challan* and statements of two passengers bore the signatures of the respondent. It was further noted that the respondent did not place any material in his favour to justify his claim that the enquiry officer's report was perverse. Consequently, it was found that the enquiry proceedings were in consonance with the principles of natural justice.

7. On the aspect of quantum of sentence, the learned Labour Court noted that respondent had worked with the petitioner corporation for more than 16 years and as per his service record, no other adverse entry was ever marked against the respondent. Taking the same into account, the learned Labour Court noted that while the decision of the

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management to remove the respondent from job was not illegal, the same was also not justifiable. Consequently, the learned Labour Court modified the sentence of the petitioner from removal to retirement from 26.09.1994. The learned Labour Court further directed that all retiral and consequential benefits like pension (if opted) be given to the respondent. Aggrieved by the same, the petitioner corporation has filed the present same.

8. The learned counsel for the petitioner submitted that the impugned award is perverse and is liable to be set aside. She submitted that the learned Labour Court categorically found that the enquiry proceeding was not violative of the principles of natural justice.

9. She submitted that despite the same, the learned Labour Court erroneously modified the punishment from removal to deemed retirement. She submitted that the learned Labour Court ought not to interfere with punishment imposed on the workman unless the same is shockingly disproportionate. She submitted that in the present case, the learned Labour Court modified the punishment simply on sympathetic grounds and the same is not permissible.

10. She relied upon the decisions passed by the Hon'ble Apex Court in the cases of ***Depot Manager, A.P. SRTC v. B. Swamy*** **: (2007) 12 SCC 40** and ***U.P. SRTC v. Suresh Chand Sharma*****: (2010) 6 SCC 555** and argued that the learned Labour Court cannot be weighed by sympathetic reasons while determining the proportionality of punishment.

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11. *Per contra,* the learned counsel for the respondent workman submitted that the impugned award is well reasoned and warrants no interference by this Court. He relied upon the decision passed by a Division Bench of this Court in the case of ***DTC v. Shyam Singh* : LPA No. 211/2012** and submitted that in terms of Section 11A of the ID Act, the Labour Court is well within its jurisdiction to determine if the punishment is justified and modify the same if the same is not proportionate.

12. He submitted that the learned Labour Court rightly exercised jurisdiction and modified the punishment of the respondent in the facts of the present case.

13. By order dated 21.02.2017, this Court had stayed the execution of the impugned award till the next date of hearing subject to deposit of a sum of ₹5,00,000/- with the Registrar General of this Court. The said sum had been deposited by the petitioner. The interim stay was neither extended nor vacated.

Analysis

14. At the outset, it is relevant to note that the jurisdiction of the High Court to issue a writ or direction in exercise of power under Article 226 of the Constitution of India is supervisory in nature and the Court ought not to act as an appellate Court. This Court ought not to rove into the exercise of reappreciation of evidence or substitute its own view for the view taken by the Labour Court unless the same is shown to be arbitrary or perverse.

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15. Equally well settled is the fact that in enquiry proceedings, strict or sophisticated rules of evidence are not applicable and the charges are required to be proved on the touchstone of preponderance of probabilities, and not beyond reasonable doubt. What is required to be seen is that there must be some material on record for the Labour Court to have reasonably arrived at the conclusion. Consequently, so long as the view taken by the Labour Court is a plausible one, this Court, in exercise of power under Article 226 of the Constitution of India, ought not re-appraise evidence to disturb the findings only because another view is possible.

16. The present petition has been preferred by the DTC challenging the modification of punishment awarded by the learned Labour Court. As per the counter affidavit of the respondent workman, he did not challenge the finding of misconduct on account of paucity of funds. While this Court is only tasked to assess the quantum of punishment to be awarded to the respondent, considering that the same is inextricably linked with the finding of misconduct and further considering that the respondent workman was unable to challenge the same given the impugned award was partially in his favour, this Court deems it apposite to briefly examine the merits of the dispute before determining the adequacy of the punishment awarded to the respondent.

17. Adverting thus to the merits of the present case, the record reveals that on 14.02.1993, when the checking staff inspected the bus, a total of seven passengers were found to be travelling ticketless who

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stated that they had, in aggregate, paid a sum of ₹66/- to the respondent but he did not issue tickets to them. The record reveals that *challan* was issued to the respondent under his signatures and the statement of the passenger recorded at the time of checking also contained the signatures of the respondent. The respondent was also supplied a copy of the chargesheet and he also furnished his reply to the same. The respondent's evidence before the learned Tribunal also reveals that he was supplied all the documents during the course of the enquiry. A perusal of the record reveals that the respondent participated in the proceedings and sufficient opportunity was given to him to defend his case. The respondent's evidence before the learned Labour Court further reveals that he actively cross examined the raiding team members, however, nothing came on record to absolve the respondent from the charge of misconduct on a preponderance of probabilities. While no passenger was examined during the course of the enquiry proceedings and the case of the management was essentially helmed on the evidence of the checking staff, the same does not suffice to hold that the enquiry proceedings was based on no evidence.

18. In that regard, the Hon'ble Apex Court, while dealing with the question pertaining to the sufficiency of evidence in departmental enquiry, and the question of non-examination of passengers, in the case of ***State of Haryana v. Rattan Singh*** **: (1977) 2 SCC 491** observed as under:

> *"4. It is well settled that in a domestic enquiry the strict and sophisticated rules of evidence under the Indian Evidence Act may*

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not apply. ***All materials which are logically probative for a prudent mind are permissible. There is no allergy to hearsay evidence provided it has reasonable nexus and credibility.*** *It is true that departmental authorities and Administrative Tribunals must be careful in evaluating such material and should not glibly swallow what is strictly speaking not relevant under the Indian Evidence Act. For this proposition it is not necessary to cite decisions nor text books, although we have been taken through case-law and other authorities by counsel on both sides. The essence of a judicial approach is objectivity, exclusion of extraneous materials or considerations and observance of rules of natural justice. Of course, fairplay is the basis and if perversity or arbitrariness, bias or surrender of independence of judgment vitiate the conclusions reached, such finding, even though of a domestic tribunal, cannot be held good. However, the courts below misdirected themselves, perhaps, in insisting that passengers who had come in and gone out should be chased and brought before the tribunal before a valid finding could be recorded. The 'residuum' rule to which counsel for the respondent referred, based upon certain passages from American Jurisprudence does not go to that extent nor does the passage from Halsbury insist on such rigid requirement.* ***The simple point is, was there some evidence or was there no evidence — not in the sense of the technical rules governing regular court proceedings but in a fair commonsense way as men of understanding and worldly wisdom will accept. Viewed in this way, sufficiency of evidence in proof of the finding by a domestic tribunal is beyond scrutiny. Absence of any evidence in support of a finding is certainly available for the court to look into because it amounts to an error of law apparent on the record.*** *We find, in this case, that the evidence of Chamanlal, Inspector of the Flying Squad, is some evidence which has relevance to the charge levelled against the respondent. Therefore, we are unable to hold that the order is invalid on that ground.*

5. ***Reliance was placed, as earlier stated, on the non-compliance with the departmental instruction that statements of passengers should be recorded by inspectors. These are instructions of prudence, not rules that bind or vitiate in the violation. In this case, the Inspector tried to get the statements but the passengers declined, the psychology of the latter in such circumstances being understandable, although may not be approved.*** ***We cannot hold that merely because statements of passengers were not recorded the order that followed was invalid.*** *Likewise, the re-evaluation of*

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> *the evidence on the strength of co-conductor's testimony is a matter not for the court but for the Administrative Tribunal. In conclusion, we do not think the courts below were right in overturning the finding of the domestic tribunal."*

(emphasis supplied)

19. Consequently, merely because the case of the management was helmed on the evidence of the checking staff will not make the enquiry proceedings defective. The only aspect that is required to be considered is whether there was *some* evidence or *no* evidence. In the present case, as is apparent from the record and as appreciated by the learned Labour Court, the Traffic Inspector had categorically deposed that when he along with other raiding team members had checked the bus of the respondent, seven passengers were found without ticket who stated that they had paid the fare to the respondent and were still not issued tickets. The same was duly corroborated by the statement of the passenger recorded at the time of checking. The respondent was supplied all the documents and was given full opportunity to defend his case. On the touchstone of preponderance of probabilities thus, the misconduct was rightly appreciated to have been proved.

20. This Court now proceeds to examine whether the learned Labour Court while finding that the enquiry was in consonance with the principles of natural justice was justified in modifying the punishment from dismissal to retirement.

21. Before this Court adverts to delve into the merits of the modification of the punishment, it is apposite to take note of Section 11A of the ID Act which reads as under:

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> *"11A. Powers of Labour Courts, Tribunals and National Tribunals to give appropriate relief in case of discharge or dismissal of workmen.-- Where an industrial dispute relating to the discharge or dismissal of a workman has been referred to a Labour Court, Tribunal or National Tribunal for adjudication and, in the course of the adjudication proceedings, the Labour Court, Tribunal or National Tribunal, as the case may be, is satisfied that the order of discharge or dismissal was not justified, it may, by its award, set aside the order of discharge or dismissal and direct reinstatement of the workman on such terms and conditions, if any, as it thinks fit, or give such other relief to the workman including the award of any lesser punishment in lieu of discharge or dismissal as the circumstances of the case may require:*
> *Provided that in any proceeding under this section the Labour Court, Tribunal or National Tribunal, as the case may be, shall rely only on the materials on record and shall not take any fresh evidence in relation to the matter.."*

22. A bare reading of Section 11A of the ID Act makes it manifest that where an industrial dispute relating to discharge/dismissal of workman is before a Labour Court, then such Court upon being *satisfied* that the order of discharge/dismissal is *not justified*, set aside the order and modify the relief to award a lesser punishment. While the provision does not highlight the circumstances where a punishment may be regarded as *not justified* and the discretion is vested with the Labour Court, such discretion is not unbridled and ought to be exercised only when the punishment imposed by the management is disproportionate to the degree of guilt of the concerned workman [Ref. ***LIC of India v. R. Dhandapani* : (2006) 13 SCC 613**].

23. On the aspect of quantum of sentence, the punishment of removal from service was modified to retirement with effect from 26.09.1994 noting that the workman had worked with the corporation for more than 16 years and as per his service record, no other adverse

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entry other than the present one was marked to the workman's account.

24. Even the factual matrix being thus, and there being no adverse entry in the record of the workman given the duration of the workman's service, this Court is unpersuaded by the rationale adopted by the learned Tribunal in modifying the sentence.

25. As relied upon by the petitioner corporation, in the case of ***Depot Manager, A.P. SRTC v. B. Swamy*** **:** *(supra),* the workman conductor was alleged to have issued tickets of lower denomination to 16 illiterate passengers and pocketed the extra amount collected from each of the passengers. After the conduction of the enquiry proceedings, the workman therein was removed from service. The Labour Court taking into account the misconduct of the workman found that the punishment of removal from service was justified. The challenge under Article 226 of the Constitution of India before the High Court of Andhra Pradesh was also dismissed. Thereafter, in the challenge before the Division Bench, it was noted that workman therein was a senior employee and the incident appeared to be accidental in his entire service record. It was noted that the management had not brought any other material on record to show that the workman therein had ever been involved in any such irregularity before. Consequently, the Division Bench found the termination of the workman therein to be unjustified and the same was set aside.

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Thereafter, in the challenge before the Hon'ble Apex Court, the order of the Division Bench of the High Court was set aside and the order of removal from service was restored. While doing so, the Hon'ble Apex Court noted that merely because this was the first occasion where the workman therein was caught was no ground to hold that the alleged act was accidental.

26. Similarly, in the case of ***U.P. SRTC v. Suresh Chand Sharma*** *(supra)*, the Hon'ble Apex Court was faced with identical facts where the allegation against the workman therein was that he had failed to issue tickets after collecting the fare from the passengers on two instances. In that case even though the learned Labour Court had affirmed the punishment of removal on finding that the enquiry proceedings were in consonance with the principles of natural justice, the Hon'ble High Court at Nainital had allowed the petition preferred by the workman on the ground that the passengers found without ticket were not examined and the cash was not checked. Thereafter, in the challenge preferred by the corporation before the Hon'ble Apex Court, while relying upon its earlier decision in the case of *State of Haryana vs. Rattan Singh (supra)*, the Hon'ble Apex Court noted that the non-examination of passengers did not vitiate the enquiry report. Further, the Hon'ble Apex Court went on to observe that even if the case involved misappropriation of a petty amount, the punishment of dismissal from service was appropriate. The Hon'ble Apex Court observed as follows:

> *"21.* ***We do not find any force in the submissions made by Dr. J.N. Dubey, learned Senior Counsel for the employee that for***

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embezzlement of such a petty amount, punishment of dismissal could not be justified for the reason that it is not the amount embezzled by a delinquent employee but the mens rea to misappropriate the public money.

22. In Municipal Committee, Bahadurgarh v. Krishnan Behari [(1996) 2 SCC 714 : 1996 SCC (L&S) 539 : AIR 1996 SC 1249] this Court held as under : (SCC p. 715, para 4)

> *"4. … In a case of such nature—**indeed, in cases involving corruption—there cannot be any other punishment than dismissal. Any sympathy shown in such cases is totally uncalled for and opposed to public interest. The amount misappropriated may be small or large; it is the act of misappropriation that is relevant."***

Similar view has been reiterated by this Court in Ruston & Hornsby (I) Ltd. v. T.B. Kadam [(1976) 3 SCC 71 : 1976 SCC (L&S) 381 : AIR 1975 SC 2025] , U.P. SRTC v. Basudeo Chaudhary [(1997) 11 SCC 370 : 1998 SCC (L&S) 155] , Janatha Bazar (South Kanara Central Coop. Wholesale Stores Ltd.) v. Sahakari Noukarara Sangha [(2000) 7 SCC 517 : 2000 SCC (L&S) 962] , Karnataka SRTC v. B.S. Hullikatti [(2001) 2 SCC 574 : 2001 SCC (L&S) 469 : AIR 2001 SC 930] and Rajasthan SRTC v. Ghanshyam Sharma [(2002) 10 SCC 330 : 2003 SCC (L&S) 714] .

23. In NEKRTC v. H. Amaresh [(2006) 6 SCC 187 : 2006 SCC (L&S) 1290 : AIR 2006 SC 2730] and U.P. SRTC v. Vinod Kumar [(2008) 1 SCC 115 : (2008) 1 SCC (L&S) 1] ***this Court held that the punishment should always be proportionate to the gravity of the misconduct. However, in a case of corruption/misappropriation, the only punishment is dismissal."***

(emphasis supplied)

27. It is against this backdrop that the modification in punishment awarded by the learned Tribunal ought to be examined.

28. This Court is neither unmindful of the width of the jurisdiction conferred on the learned Tribunal by virtue of Section 11A of the Industrial Disputes Act, 1947 nor the principle that in exercise of power under Article 226 of the Constitution of India, this Court ought to be slow to substitute its own view for the view taken by the learned

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Tribunal. In the facts of the present case where the misconduct was upheld, the learned Tribunal should not have roved into any sympathetic considerations while determining the quantum of punishment. However, in the present case, the only alteration made by the learned Labour Court was to modify the punishment from removal to deemed retirement from 26.09.1994 thereby granting only retiral or pensionary benefits to the respondent. On this account, this Court does not deem it apposite to interfere with the impugned award to remove the pensionary benefits granted to the respondent at this juncture after almost a decade.

29. However, considering the peculiar facts of the present case, this Court deems it expedient to limit the total pensionary relief to be granted to the respondent at ₹5,00,000/-.

30. The sum of ₹5,00,000/- thus deposited with the Registrar General of this Court pursuant to order dated 21.02.2017, is directed to be released in favour of the respondent within a period of 4 weeks.

31. The impugned award is partially modified in the aforesaid terms. Pending application also stands disposed of.

AMIT MAHAJAN, J

SEPTEMBER 16, 2026
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