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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% **Date of Decision: September 17th, 2026**# **CNR No. DLHC010001262011**+ **W.P.(C) 3640/2011 & CM APPL. 3287/2023**

DTC

.....Petitioner

Through: Mr. Anurag Abhishek, Standing
Counsel.

versus

SHRI BRAHAM PRAKASH

.....Respondent

Through: Mr. G. S. Charya, Advocate.

CORAM:**HON'BLE MR. JUSTICE AMIT MAHAJAN****AMIT MAHAJAN, J. (Oral)**

1. By the present petition, the petitioner has challenged the order dated 23.10.2009 (hereafter '**impugned order**') and the award dated 12.08.2010 (hereafter '**impugned award**') in I.D. No. 234/08/96, whereby the learned Tribunal granted reinstatement without back wages, with continuity of service to the respondent.

2. Briefly stated, the respondent/workman was initially appointed as a *Conductor* on probation and was subsequently confirmed in the said post in 1983. It is the case against the respondent that on 29.10.1993, while performing duty on Bus No. 939, when the bus was intercepted by the checking staff, it was found that the respondent had failed to issue tickets to six passengers after collecting the due fare from them.

3. Consequently, the respondent was placed under suspension *vide* letter dated 09.11.1993, and a departmental enquiry was initiated against the respondent.



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4. On the basis of the same, a charge-sheet dated 18.11.1993 was issued to the respondent. The respondent, in his reply to the chargesheet dated 26.11.1993, denied all the allegations. As the reply was found unsatisfactory, a departmental enquiry was conducted.

5. In the aftermath of the enquiry proceedings, the charges against the respondent were found to be proved.

6. A show-cause notice dated 30.06.1994 was thereafter issued to the respondent, proposing removal from service as a penalty. The respondent's reply was not found satisfactory. By order dated 20.10.1994, the disciplinary authority removed the respondent from service.

7. Pursuant thereto, the respondent raised an Industrial Dispute, which was referred *vide* reference No. F.24(1252)/96-Lab/21533-38 dated 17.04.1996, to the learned Tribunal for adjudication, and the point of adjudication referred to the learned Labour Court was as follows:

“Whether the punishment of removal of Sh. Brahm Prakash from service by the management is illegal and/or unjustified and is, so, to what relief is he entitled and what directions are necessary in this respect?”

8. On the basis of the pleadings, the learned Tribunal on 24.09.1997 framed issues:

“Whether the domestic enquiry was not conducted according to the principles of natural justice and is therefore, not fair and valid and proper?”

9. By order dated 23.10.2009, the learned Tribunal decided the issue in favour of the respondent. In doing so, the learned Tribunal noted that the management witnesses ought to have deposed in the



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presence of the respondent and noted that the mere say of the witnesses that their earlier statement should be considered as examination-in-chief in the enquiry would not suffice to prove the charges against the respondent. It was consequently noted that in the absence of oral testimony, the findings rendered in the enquiry proceedings cannot be held to be fair and proper, even if the enquiry proceedings *per se* are in accordance with the principles of natural justice.

10. The learned Tribunal, by award dated 12.08.2010, directed the petitioner to reinstate the respondent without backwages and found that the respondent was entitled to benefits of seniority and continuation of service. While granting the said relief, the learned Tribunal noted that from the evidence of the checking staff, the finding of misconduct was inconceivable.

11. Aggrieved thereby, the present petition.

12. During the pendency of the present petition, the respondent filed an application under Section 17B of the Industrial Disputes Act, 1947, which was allowed *vide* order dated 19.10.2012.

13. The learned counsel for the petitioner submits that the impugned award is perverse and is liable to be set aside. He submits that the learned Tribunal failed to appreciate material evidence placed on record.

14. He submits that the statement of the passenger and the circumstances under which the respondent was confronted with the passenger were not taken into consideration by the learned Tribunal. He further submits that upon confrontation, the respondent had



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admitted his guilt and had also surrendered unpunched tickets.

15. He submits that the enquiry proceedings are to be examined on the touchstone of preponderance of probabilities and the evidence led by the petitioner. The testimony of the checking staff, and the unpunched tickets were sufficient to establish the guilt of the respondent.

16. *Per Contra*, the learned counsel for the respondent submits that the impugned award is well reasoned and does not merit any interference by this Court. He submits that there was a dearth of evidence to point towards the guilt of the respondent. He submits that even the cash was not checked by the checking staff.

17. He submits that the relevant waybill was not produced or properly proved before the learned Tribunal. He submits that there is no evidence as to what happened to the waybill after the alleged incident and, importantly, the waybill was not closed. It is, therefore, contended that the basic documentary material necessary to establish the charge against the respondent was itself not properly brought on record. He further places reliance on ***DTC v. Anup Singh, 2006 SCC OnLine Del 1065*** to contend that counting of cash was necessary to establish the misconduct.

18. I have heard both the parties and perused the material placed on record.

19. 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



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to rove into the exercise of reappreciation of evidence or substitute its own view taken by the Labour Court unless the same is shown to be arbitrary or perverse.

20. 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 if power under Article 226 of the Constitution of India, ought not to re-appraise evidence to disturb the findings only because another view is possible.

21. It is primarily the case of the petitioner that the respondent had committed misconduct by collecting fare from six passengers but failing to issue them tickets, thereby causing loss of revenue to the petitioner of Rs 14.50 paise.

22. By order dated 23.10.2009, the learned Tribunal had found the enquiry proceedings were not fair and just, as the oral testimony was not recorded in the presence of the respondent. Consequently, the management was given opportunity to lead evidence.

23. Turning to the impugned award dated 12.08.2010, the petitioner's case on merits rested principally on the testimony of MW-1, Sh. U.S. Tripathi, and MW-2, Sh. Rajbir Singh. MW-1, in cross-examination, deposed that he had no personal knowledge of the acts of misconduct attributed to the respondent, since he had only acted as the



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disciplinary authority. MW-2, a member of the checking staff, deposed that when the bus was intercepted, five passengers travelling from Luharu to Pipli Border, and one passenger travelling from Luharu to Dulania, were found to be travelling ticketless despite having paid the fare, and that on being confronted, the respondent had admitted his guilt. MW-2 further deposed that the respondent had surrendered five unpunched tickets bearing nos. 665-73434 to 73438, for a fare ₹2/- each, in respect of the first group of passengers, and one unpunched ticket bearing no. 73439, for a fare of ₹4.50, in respect of the passenger travelling to Dulania.

24. The learned Tribunal, on consideration of evidence before it, found a discrepancy in the signature of the respondent appearing on the unpunched tickets. Consequently, the learned Tribunal compared the respondent's admitted signature on the Challan with the signatures appearing on the surrendered unpunched tickets, and found that the two did not match. The said aspect, as duly appreciated by the learned Tribunal, casts serious aspersions on the case of the management.

25. The said doubts are further exacerbated in the light of the fact that the statement of the passengers recorded at the time of checking did not contain the total amount they paid to the respondent. Further, as noted above, the learned Labour Court rightly appreciated that the fact that the signatures on the surrendered unpunched tickets did not tally with the admitted signature of the respondent on the challan, cast doubt on the claim of the management that the unpunched tickets were voluntarily surrendered by the respondent. MW-2's testimony, moreover, stood uncorroborated by any other member of the checking



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team, despite the charge being founded on a team-checking exercise.

26. Much emphasis is also laid by the respondent on the absence of cash verification. It is argued that the allegations cannot be verified without cash verification and there is a possibility that certain passengers were unscrupulously trying to travel without tickets. It was maintained by the management witness that cash verification was not conducted.

27. In that regard, it is pertinent to note that this Court in ***Mahesh Chand v. D.T.C., 2026:DHC:7889***, examined the effect of the absence of cash verification after considering the relevant precedents on the issue. This Court ultimately held that the absence of cash verification does not *ipso facto* vitiate the departmental enquiry and that the finding of guilt can be sustained even in the absence of such verification.

28. It is imperative to note that the absence of cash verification, by itself, may not be sufficient to vitiate the enquiry. However, in the dearth of any other reliable evidence to establish that fare was actually collected without issuance of tickets, non-checking of cash absence assumes heightened significance and goes to the root of the charge. In the light of the aforesaid, the learned Tribunal has rightly found the charge of misconduct against the respondent to be untenable.

29. It emerges that the view adopted by the learned Tribunal is a plausible view and it is well delineated that in exercise of jurisdiction under Articles 226 and 227 of the Constitution, this Court does not sit as a Court of appeal over the findings recorded by the Labour Court/Tribunals. Merely because another view on the evidence is



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possible would not justify interference. Reference in this regard may be made to the judgment in ***International Airport Authority of India v. International Air Cargo Workers Union* : (2009) 13 SCC 374**, where the Hon'ble Apex Court held"

"47. It is true that in exercising the writ jurisdiction, the High Court cannot sit in appeal over the findings and award of the Industrial Tribunal and therefore, cannot reappreciate evidence. The findings of fact recorded by a fact-finding authority should ordinarily be considered as final. The findings of the Tribunal should not be interfered with in writ jurisdiction merely on the ground that the material on which the Tribunal had acted was insufficient or not credible.

48. It is also true that as long as the findings of fact are based on some materials which are relevant, findings may not be interfered with merely because another view is also possible. But where the Tribunal records findings on no evidence or irrelevant evidence, it is certainly open to the High Court to interfere with the award of the Industrial Tribunal."

30. However, be that as it may, this Court cannot lose sight of the fact that mere finding of wrongful termination/discontinuation does not by itself grant a right of reinstatement or back wages to the aggrieved employee.

31. It is trite law that a finding of illegality in termination does not, by itself, mandate reinstatement in every case. The Hon'ble Apex Court has repeatedly held that reinstatement is not an automatic or mechanical consequence of an order of termination being held illegal and that the relief must be moulded having regard to the nature of employment, length of service and the surrounding circumstances of the case. In ***Allahabad Bank v. Krishan Pal Singh* : (2021) 19 SCC 227**, the Hon'ble Supreme Court has held that reinstatement with full back wages is not automatic in every case where termination or



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dismissal is found to be not in accordance with the procedure prescribed under law and that the relief can be moulded depending upon the facts and circumstances of the case.

32. In the present case, the respondent remained in services of the petitioner for a period of around 11 years, prior to his termination in the year 1994. More than three decades have elapsed thereafter and the respondent has since attained the age of superannuation. It is also pertinent to note that this Court, *vide* order dated 19.10.2012, had allowed the respondent's application under Section 17-B of the Industrial Disputes Act, 1947 and directed the petitioner to pay him wages last drawn or the minimum wages, whichever was higher, and he received the same till he reached the age of superannuation.

33. In the opinion of this Court, considering the totality of the circumstances, ends of justice would be met if the workman is awarded a lumpsum compensation of ₹4,00,000/-. The same is directed to be paid within four weeks from the date of the present order. The aforesaid amount shall be paid by the petitioner within a period of eight weeks from the date of this order.

34. The impugned award is modified and the present petition is disposed of in the aforesaid terms.

35. Pending applications (if any) also stand disposed of.

AMIT MAHAJAN, J

SEPTEMBER 17, 2026

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