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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% ***Date of Decision: 09th September, 2026***# **CNR No. DLHC010888782017**+ **W.P.(C) 8713/2017 & CM APPL. 35715/2017**

SUKH PAL SINGH

.....Petitioner

Through: Mr. S.N. Parashar, Adv.

versus

DELHI TRANSPORT CORPORATION & ANR

.....Respondents

Through: Ms. Aditi Gupta, Adv. for
DTC.**CORAM:****HON'BLE MR. JUSTICE AMIT MAHAJAN****AMIT MAHAJAN, J. (Oral)**

1. By the present petition, the petitioner challenges the order dated 16.07.2016 (hereafter '**impugned order**') and the award dated 12.08.2016 (hereafter '**impugned award**') passed by the learned Presiding Officer, Karkardooma Courts, Delhi in ID No. 205/10 whereby the learned Tribunal found that the enquiry proceedings were conducted in consonance with the principles of natural justice and upheld the order of dismissal from service respectively.

2. Briefly stated, the petitioner was employed with the respondent corporation in the year 1998 as a retainer crew conductor. It is the case against the petitioner that while on duty on bus no. 5286 on 03.12.2005, when the bus was checked by the checking officials, it was found that the petitioner had taken a sum of ₹20/- from two



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passengers and had not issued any ticket to them. It is further the case against the petitioner that in addition to pocketing a sum of ₹20/- without issuing tickets, the petitioner had charged ₹4/- less from the two passengers given that the proper fare from Sohna to Gurgaon was ₹24/- for two passengers.

3. Consequently, in the aftermath of the enquiry proceedings, the petitioner was found guilty of misappropriation and was dismissed from service.

4. Thereafter, in the industrial dispute before the learned Tribunal, *vide* impugned order dated 16.07.2016, the learned Tribunal found that the enquiry was conducted in accordance with the principles of natural justice. In doing so, the learned Tribunal noted that from the statement of the petitioner before the enquiry officer, it was clear that he did not dispute that at the time when the bus was checked by the checking staff, two passengers were in fact found without ticket. It was noted that while the story of the petitioner was that he was checking the genuineness of the note of ₹500/- which was allegedly handed to him by the two passengers, the evidence of the checking staff indicated otherwise.

5. The learned Tribunal further noted that while the management had not examined any passenger before the enquiry officer, as per the cross examination of the petitioner himself, the raiding team members had recorded the statement of the passengers at the time when the *challan* was issued. Consequently, it was found that the enquiry officer did not violate any principles of natural justice.

6. Further, *vide* impugned award dated 12.08.2016, the learned



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Tribunal, noting that the enquiry proceedings were fair and proper, had upheld the punishment of dismissal from service granted to the petitioner.

7. Aggrieved thereby, the petitioner workman has preferred the present petition.

8. The learned counsel for the petitioner submits that the impugned order and impugned award are perverse and are liable to be set aside. He submits that the petitioner workman was found guilty and was dismissed from service based on the evidence of the checking staff as no alleged passenger was examined during the course of the enquiry proceedings. He submits that the same vitiates the enquiry proceedings.

9. He further submits that the enquiry officer also did not appoint any defence assistant to assist the petitioner in presenting his case during the course of the enquiry proceedings. He further submits that the enquiry is vitiated because it was the enquiry officer himself who was putting questions to the witnesses. He consequently submits that the impugned order and impugned award are liable to be set aside.

10. *Per contra*, the learned counsel for the respondent submits that the impugned order and impugned award are well reasoned and do not suffer from any palpable perversity or irregularity to warrant any interference by this Court. She submits that mere non examination of passengers does not vitiate enquiry proceedings and submits that merely because it was the enquiry officer himself who was putting questions to the witnesses does not tantamount to mean that enquiry proceedings violated the principles of natural justice. She



consequently submits that the present petition be dismissed.

11. No other argument has been raised to challenge the impugned order or the impugned award.

12. I have heard the counsel and perused the material on record.

13. 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 therefore cannot substitute its own view for the view taken by the Labour Court unless the same is shown to be arbitrary or perverse.

14. In the present case, the petitioner has sought to impress upon this Court that the impugned order and impugned award are marred from material irregularity because the learned Tribunal failed to appreciate that the finding of guilt returned by the enquiry officer was hedged on the evidence of the management witnesses and no passenger was examined during the course of the proceedings. It has further been urged that since the enquiry officer did not appoint any defence assistant to assist the petitioner in presenting his case during the course of the enquiry proceedings and that the enquiry officer was himself putting question to the witnesses, the enquiry proceedings stood vitiated.

15. Insofar as the argument relating to the finding of guilt being helmed on the evidence of the checking staff and the non-examination of alleged passengers during the course of the enquiry proceedings is concerned, it is pertinent to note that it is no longer *res integra* that the mere non examination of passengers does not taint the enquiry



proceedings. Merely because the case of the management was helmed on the evidence of the checking staff will not make the enquiry proceedings defective. 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 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 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)

16. From a reading of the reproduced paragraphs as quoted *supra*, it is apparent that mere non examination of passengers or reliance on hearsay evidence does not vitiate the enquiry proceedings. 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 a perusal of the enquiry report and as appreciated by the learned Tribunal as well, the checking staff officials deposed that when they had entered the bus for checking, they found from the passengers that the petitioner after collecting currency note of ₹100/- from the two passengers had returned the said passengers a sum of ₹80/- and had pocketed a sum of ₹20/- without issuing any ticket. Further, as appreciated by the learned Tribunal, the petitioner himself did not dispute that he had failed to issue tickets, he merely stated that he was checking the genuineness of the note of ₹500/- which was allegedly handed to him by the two passengers. The same, as noted by the learned Tribunal, was corroborated by the statement of the passengers recorded during the course of checking.



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17. While the petitioner has claimed non examination of alleged passengers during the course of the enquiry proceedings and the case of the management being helmed on the evidence of the checking staff, it is not the case of the petitioner that the checking staff harboured any animosity towards him for which reason the petitioner was sought to be falsely implicated. Consequently, this Court is unpersuaded by the said stance taken by the petitioner to challenge the enquiry proceedings and consequently the impugned order and impugned award.

18. Further, while the petitioner has sought to challenge the enquiry proceedings on the ground that the enquiry officer failed to appoint any defence assistant, it is not the case of the petitioner that he was stopped from seeking any assistance. Infact, as per his own evidence before the learned Tribunal, the petitioner admits that he was afforded full opportunity to present his case by the enquiry officer and that the petitioner did take part in the enquiry proceedings. Consequently, merely because the enquiry officer himself did not appoint any defence assistant or the fact that the enquiry officer himself put questions to the witnesses, does not suffice to state that the enquiry proceedings were vitiated.

19. On such a conspectus of facts, once misappropriation was found to be established, no perversity can be attributed to the impugned award that upheld the dismissal of the petitioner from service.

20. As noted above, this Court in exercise of powers under Article 226 of the Constitution of India ought not to act as an appellate Court



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and cannot substitute its own view for the view taken by the Labour Court unless the same is shown to be arbitrary or perverse.

21. In the facts of the present case, no such demonstrable arbitrariness or perversity has been highlighted in the impugned order or impugned award to warrant any interference by this Court.

22. The present petition is accordingly dismissed. Pending application also stands disposed of.

AMIT MAHAJAN, J

SEPTEMBER 9, 2026

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