



2026:DHC:8042



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* IN THE HIGH COURT OF DELHI AT NEW DELHI

% *Date of Decision: 16th September, 2026*

CNR No. DLHC010709292005

+ W.P.(C) 5368/2005

DTC

.....Petitioner

Through: Mrs. Avnish Ahlawat, SC, DTC
with Mr. Nitesh Kumar Singh,
Ms. Aliza Alam and Mr.
Mohnish Sehrawat, Advs.

versus

SH ROHTASH SINGH

.....Respondent

Through: Mr. Anil Mittal, Mr. Shaurya
Mittal and Mr. Atul Chauhan,
Advs.

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

1. By the present petition, the petitioner challenges the award dated 11.03.2004 (hereafter '**impugned award**') passed by the learned Presiding Officer, Labour Court, Karkardooma Courts, Delhi in ID No. 137/90 whereby the learned Labour Court, noting that the charge of non-issuance of tickets despite receipt of due fare had not been made out against the respondent, had directed the petitioner to reinstate the respondent with payment of 25% back wages.

2. Succinctly put, the respondent was employed as a conductor with the petitioner on 08.11.1979. It is the case against the respondent that on 20.12.1988, when bus No. 6050 on Delhi – Faridabad route was checked by the checking officials, four passengers were found to



be alighting the bus without tickets who claimed that they had, in aggregate, paid a sum of ₹16/- to the respondent (₹4/- per passenger) and were not issued any ticket. It is further the case against the respondent that on checking the cash available with the respondent, a sum of ₹29.65 was found in excess.

3. On the basis of the same, a chargesheet was issued to the respondent on 17.01.1989. Thereafter, in the aftermath of the enquiry proceedings, the charges against the respondent were found to be proved and the respondent was removed from service with effect from 05.05.1989. The approval application preferred by the petitioner under Section 33(2)(b) of the Industrial Disputes Act, 1947 was also allowed. On that occasion, the learned Tribunal noted that the enquiry was conducted in accordance with the principles of natural justice and the respondent was given full opportunity to defend his case.

4. Thereafter, in the industrial dispute raised by the respondent, the learned Labour Court found that the enquiry was not fair and proper. In doing so, the learned Labour Court noted that the onus was on the management to prove that the enquiry was fair and in failing to lead any evidence in that regard, the management had failed to discharge the burden of proving that the enquiry proceedings were proper.

5. Further, by the impugned award, the learned Labour Court noted that the management had failed to prove that the respondent had collected fare from 4 passengers and had not issued tickets. For rendering the said finding, the sole ground taken into consideration by the learned Labour Court was that the management did not examine



one Shri. Khem Chand who was the one who had recorded the statements of the passengers. Consequently, it was found that the management had failed to prove the charge of non-issuance of tickets. On the second charge, the learned Labour Court noted that since the respondent himself admitted that upon checking, a sum of ₹29.65/- was found in excess, the said charge against the respondent stood proved. On the basis of the aforesaid, the learned Labour Court directed that the respondent be reinstated in service along with 25% back wages. Aggrieved by the same, the petitioner has filed the present petition.

6. The learned counsel for the petitioner submits that the impugned award is perverse and is liable to be set aside. He submits that the respondent has not denied that on the said date, the bus was checked and four ticketless passengers were found. He submits that the statements of the passengers were also countersigned by the respondent. He submits that on checking, the cash was also found to be in excess.

7. He submits that the learned Labour Court erred in reappreciating evidence and finding the enquiry to be perverse only because the management did not produce any evidence before the learned Labour Court. He submits that the material before the enquiry officer was sufficient to prove the charges against the respondent.

8. *Per contra*, the learned counsel for the respondent submits that the impugned award is well reasoned and warrants no interference by this Court. He submits that since the management failed to produce one Khem Chand who had recorded the statement of the passengers



and had checked the cash of the respondent, the charge against the respondent was rightly found to be not proved.

9. By order dated 26.03.2008, the application preferred by the respondent under Section 17B of the Industrial Disputes Act, 1947 was allowed. Subsequently, on 17.07.2009, on the petitioner's statement that he was ready to take the respondent back on duty, the respondent had resumed his duties with the petitioner. On 11.08.2011, learned counsel for the petitioner clarified that for the period during which the respondent workman was taken back on duty, in lieu of Section 17B of the Industrial Disputes Act, 1947 he would be paid regular wages; and if discontinued thereafter, the respondent would continue to receive wages as per Section 17B of the Industrial Disputes Act, 1947.

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

11. In the present case, on a holistic appraisal of the entire material on record, this Court is of the view that the learned Labour Court erroneously found the enquiry to be unfair and perverse. Further on merits as well, undue emphasis was placed on the non-examination of Khem Chand or any of the passengers before the learned Labour in rendering the finding that there was no material to prove the misconduct of the respondent. Before this Court adverts to pen its reasons, it is pertinent to note that in departmental enquiry, the standard of proof is one of preponderance of probabilities and not beyond reasonable doubt. In that regard, while dealing with the aspect of sufficiency of evidence in a departmental enquiry, the Hon'ble Apex Court 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.”

(emphasis supplied)

12. Adverting now to the merits of the present case, the learned Labour Court found the enquiry proceedings to be unfair merely



because the management had not led evidence before it to prove that the enquiry was conducted in a proper manner. The learned Labour Court noted that the management had failed to examine the passengers. Further, the learned Labour Court noted that since the management failed to examine Shri Khem Chand, one who had recorded the statement of the passengers and checked the cash of the respondent, there was no material to prove misconduct of the respondent.

13. In doing so, the learned Labour Court virtually undertook a fresh appreciation of evidence and substituted its own conclusions by insisting upon further corroborative material. From a perusal of the enquiry report and the other material on record, it is apparent that as per the Inspection Report, when the respondent was confronted with the passengers, he admitted his fault. The statement of the passengers were recorded on the back of the *challan* and the same was also countersigned by the respondent. In fact, as per the respondent's own admission, when cash was checked, he was found in possession of excess cash by ₹29.60/-.

14. The record reveals that the copy of the challan was supplied to the respondent. Consequently, when chargesheet was issued, the respondent was given 10 days' time to reply to the same. The respondent furnished the reply which was not found satisfactory leading to initiation of enquiry against the respondent. The respondent actively participated in the proceedings, he was explained the charges and he also denied assistance of any co-worker. Sufficient opportunity to defend the case, including opportunity to examine and cross-



examine, was duly provided and availed by the respondent. In fact, the enquiry report reveals that the respondent only cross-examined Shri Niwas (who was also examined before the learned Labour Court) and rather refused to cross examine Shri Khem Chand – the absence of whose examination before the learned Labour Court has been considered to cast a fatal blow to the case of the management.

15. On an appraisal of the same, it cannot be said that there was no material before the learned Labour Court merely because Shri Khem Chand who had recorded the statement of the passengers or the passengers themselves were not examined before the learned Labour Court. It is no longer *res integra* that non examination of passengers does not vitiate the enquiry proceedings [Ref. ***State of Haryana v. Rattan Singh : (1977) 2 SCC 491***]. Further, merely because Shri Khem Chand himself was not examined does not efface the other material against the respondent. In the opinion of this Court, the approach taken by the learned Labour Court proceeds on an erroneous standard of proof. As noted above, a disciplinary enquiry is not governed by the strict rules of evidence applicable to criminal proceedings. The misconduct is required to be established only on the touchstone of preponderance of probabilities. Once there existed material in the form of the checking report, signatures of the respondent thereon, admission of presence of excess cash, the Enquiry Officer could reasonably arrive at the conclusion that the charges stood proved. Infact, Shri Niwas, though was not the person to have recorded the statement of the passengers or checked the cash, he was one of the raiding team members who had categorically deposed even



before the enquiry officer that he was performing duties along side Khem Chand and when the bus was checked four persons were found ticketless who claimed to have paid the due fare to the respondent.

16. Furthermore, while this Court ought not and is not roving into a detailed examination of the evidence, undisputedly, the application preferred by the petitioner under Section 33(2)(b) of the Industrial Disputes Act, 1947 was allowed by the learned Industrial Tribunal and on that occasion, while finding the enquiry to be fair, the learned Tribunal had holistically appraised the evidence on record. Further, on that occasion, Shri Khem Chand (who recorded the statement of the passengers and also checked the cash of the respondent) was also examined who categorically deposed that when the bus was checked four passengers were found without tickets who had paid due fare to the respondent. Although, the Tribunal in the proceedings under Section 33(2)(b) of the Industrial Disputes Act, 1947 is only required to take a *prima facie* view and the width of jurisdiction in the proceedings under Section 10 and 11A of the Industrial Disputes Act, 1947 is wider, on a holistic appraisal of the facts, this Court is of the opinion that there existed sufficient material on record for the learned Labour Court to have come to a conclusion that the charges stood proved on the touchstone of preponderance of probabilities.

17. The learned Labour Court thus, while finding that the enquiry was not fair and proper, and insisting only on the non-examination of Shri Khem Chand in oblivion to the other material on record, exceeded the permissible limits of judicial scrutiny over departmental proceedings.



2026:DHC:8042



18. Consequently, this Court is of the considered opinion that the findings recorded by the learned Labour Court setting aside enquiry proceedings cannot be sustained. The impugned award suffers from patent infirmity inasmuch as it re-appreciates the evidence as an appellate authority and applies a standard of proof alien to domestic disciplinary proceedings.

19. Insofar as the amounts paid to the Respondent pursuant to the order passed under Section 17B of the Industrial Disputes Act are concerned, it is settled that such payments are not recoverable from the workman as they are subsistence allowance granted when the Workman remains unemployed. Therefore, no direction for recovery thereof is called for.

20. The writ petition stands allowed in the aforesaid terms and the impugned award is set aside.

AMIT MAHAJAN, J

SEPTEMBER 16, 2026

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