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* IN THE HIGH COURT OF DELHI AT NEW DELHI

% *Date of Decision: 14th September, 2026*

CNR No. DLHC010000642006

+ W.P.(C) 13835/2006

SHRI RAM PAL

.....Petitioner

Through: Ms. Shweta Singh, Adv.

versus

D.T.C.

.....Respondent

Through: Counsel (Appearance not given)

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

1. The present petition has been filed assailing the Impugned Award dated 28.07.2005, passed by the learned Presiding Officer, Industrial Tribunal-II, Karkardooma Courts, Delhi, in I.D. No. 158/2001, whereby the learned Tribunal declined to grant any relief to the Petitioner/Workman and upheld the order dated 02.12.1991 whereby the petitioner had been removed from service by the Respondent/Delhi Transport Corporation

2. Succinctly stated, the Petitioner was appointed as a *Conductor* with the Respondent on 10.07.1985. A Charge-sheet was served upon the petitioner on 31.05.1991, alleging, *inter alia*, that on 14.05.1991 he had collected fare from six passengers without issuing tickets and had also instigated the passengers against the checking staff.



3. The domestic enquiry was held which ultimately culminated in the Order dated 02.12.1991 whereby punishment of *removal form services* was imposed upon the Petitioner.

4. The Respondent approached the Industrial Tribunal under Section 33(2)(b) of the Industrial Disputes Act, 1947 seeking approval of the action taken against the Petitioner. *Vide* Order dated 16.01.1999 passed the issue of validity of the enquiry was decided in favour of the Respondent DTC and *vide* Order dated 02.12.1999 passed, the approval was granted.

5. Thereafter, an industrial dispute raised by the petitioner was referred for adjudication to the Industrial Tribunal-II, which was registered as ID No.158/2001. The following point of adjudication was referred to the learned Tribunal: -

“Whether the punishment imposed upon Sh. Ram Pal by the management vide their Order dt. 2.12.91 is illegal and/or unjustified and if so, to what relief is he entitled and what directions are necessary in this respect?”

6. The Petitioner filed the Statement of Claim and contended that the domestic enquiry was vitiated by several procedural irregularities *inter alia*, the assistance of a co-worker was denied to him; the copy of checking sheet and waybill was not provided to him; the passengers were not examined; list of documents and witnesses was not provided and he was not given due opportunity to defend his case. Hence, the enquiry was held against the principles of natural justice and thus, he claimed reinstatement with back wages.

7. The Management had filed the Written Statement and contended that the action of the management had been approved *vide*



order dated 02.12.1999; the checking staff had caught six passengers travelling without tickets and on enquiry they stated that though they had given total Rs. 6/- to the Petitioner, he had not issued tickets to them; the Petitioner after admitting his fault surrendered the 6 unpunched tickets; the statements were recorded at the back of the challan; and thus, on the basis of this enquiry was conducted where principles of natural justice were duly followed and after considering the report of the enquiry officer the workman was removed from service by the Disciplinary Authority.

8. Accordingly, following issue were framed on 14.08.2002: -

*“1. Whether the order of the management dated 2.12.91 is illegal and unjustified? OPW
2. Terms of reference.”*

9. *Vide* the Impugned Award, the learned Tribunal upon consideration of the material before it including the orders passed in 33 (2) (b) proceedings whereby the enquiry was held to be proper, answered the reference against the Petitioner.

10. Aggrieved, the present writ has been filed.

11. Learned counsel for the Petitioner has confined the oral arguments to submit that the domestic enquiry was conducted in breach of the principles of natural justice; though the Petitioner was entitled to assistance of a co-worker the same was denied; non-examination of passenger witnesses was fatal; there was a discrepancy between the closing number of the ticket book and the ticket numbers attributed to the Petitioner; and Petitioner's past service record was not considered before imposing punishment and termination of services merely over alleged gain of Rs. 6/- is shockingly disproportionate.



12. *Per contra*, the learned counsel for the Respondent/DTC supports the impugned award. It is submitted that the validity of the domestic enquiry had already been upheld in the earlier proceedings and the removal had thereafter been duly approved under Section 33(2)(b) which was never challenged by the Petitioner; the Petitioner had duly participated in the enquiry and was afforded adequate opportunity to defend himself; the misconduct was established on the basis of the material collected during the checking of the bus, including the statements of the checking staff and the recovery/surrender of six unpunched tickets; Petitioner had himself denied assistance of any co-worker; all the arguments have already been considered and any interference by this Court would amount essentially to a re-appreciation of the evidence, which is not warranted in exercise of the writ jurisdiction of this Court.

13. Arguments heard and perused the record.

14. In the present case, the validity of the domestic enquiry had already been considered in the earlier proceedings. The order dated 16.01.1999 records the decision on the validity of the enquiry in favour of the management, and the subsequent order dated 02.12.1999 granted approval to the action of removal. These proceedings constitute a relevant circumstance while examining the Petitioner's subsequent challenge, particularly when the Petitioner participated in the disciplinary proceedings and the enquiry was not found to be vitiated and the order has never been challenged.

15. 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, where attracted, cannot be said to have disappeared merely because an order under Section 33(2)(b) had earlier been passed.

16. However, the aforesaid principle does not advance the petitioner's case. 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.

17. 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.

18. The enquiry proceedings and evidence on record reveals that on 14.05.1991, the checking staff, while inspecting Bus No. 8961, had apprehended a group of 6 passengers travelling without any tickets, who stated that they had given Rs. 6/- to the Petitioner but he did not issue them any tickets despite collecting the fare amount. When the Petitioner was confronted, he admitted his fault and surrendered 6 unpunched tickets. Since the other passengers were illiterate, the statement of the group leader was recorded at the back of the challan, who stated that the Petitioner had not issued tickets though the passengers had paid him Rs. 6/-. The same was also signed by the



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Petitioner and the group leader. The copy of the challan was supplied to the Petitioner as well and the report of the checking staff was submitted to the appropriate authority. Consequently, the chargesheet was issued, at the Petitioner was given 10 days' time to reply to the same. The Petitioner furnished the reply which was not found satisfactory leading to initiation of inquiry against the Petitioner. The Petitioner 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 Petitioner. After examining the statements of the Complainant A.T.I., other witnesses of the Management and the evidence led by the Petitioner, the enquiry officer held the charges of misconduct proved and submitted the report to the Disciplinary Authority, which upon due consideration of the material placed forth it including the past record, issued a Show Cause Notice to the Petitioner. The Petitioner replied to the same, however, finding the Reply non-satisfactory, the Disciplinary Authority confirmed the punishment of removal from service and consequently issued the Removal Order dated 02.12.1991.

19. Hence, the above enquiry proceedings cannot be said to be based on no evidence. Merely because the case of the management was helmed on the evidence of the checking staff will not make the enquiry proceedings defective. The petitioner nevertheless seeks to reopen the enquiry by pointing to the alleged non-examination of the passengers. The mere absence of passenger witnesses cannot, however, be treated as an inflexible rule rendering the disciplinary



proceedings unsustainable in every case, that too when the statements were recorded at the back of the challan which was duly provided to the Petitioner.

20. 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)

21. It is also settled that non-compliance with departmental instructions does not *ex facie* vitiate enquiry proceedings [Ref. ***State of Haryana v. Rattan Singh : (1977) 2 SCC 491; Mahesh Chand v. DTC : W.P.(C) 2399/2007***].

22. Further, the contention regarding the assistance of a co-worker also does not, by itself, establish that the Petitioner was denied a fair opportunity. The enquiry proceedings itself record that when the chargesheet was read-over to the Petitioner he did not plead guilty and himself denied assistance of any co-worker. Additionally, though it is merely contended that certain documents were not supplied to him, however, the Petitioner has not been able to demonstrate how the same caused any prejudice to him or affected the efficiency or effectiveness of the inquiry proceedings.

23. Though another ground has been urged that there is some discrepancy in the ticket numbers. This contention essentially



concerns the appreciation of the evidentiary material forming the basis of the charge, when already the fact-finding authorities have taken a view and would not by itself justify this Court in substituting its own assessment for that of the disciplinary authority.

24. The Court is also unable to accept the submission that the learned Tribunal was bound to interfere with the punishment merely because the Petitioner relied upon his past service record. The past record of an employee may be relevant to the question of punishment, but the Petitioner has not demonstrated that the failure, if any, to advert to his past record renders the punishment of removal so disproportionate that it shocks the conscience of the Court. The charge against the Petitioner relates to the alleged collection of fare from six passengers without issuing tickets. The nature of the alleged *misconduct* is directly connected with the duties entrusted to a conductor and involves an element of financial integrity in the discharge of those duties. The punishment of removal, therefore, cannot be said, on the material placed before this Court, to be one which is so outrageously disproportionate as to warrant interference under Article 226.

25. 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.

26. 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



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reasons discussed above, be said to be one which warrants interference.

27. It is also relevant that the disciplinary action dates back to the year 1991 and the impugned award was rendered in the year 2005. 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.

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

AMIT MAHAJAN, J

SEPTEMBER 14, 2026

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