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. DLHC010329462007

\+ **W.P.(C) 2399/2007**

MAHESH CHAND .....**Petitioner**

versus

D.T.C. .....**Respondent**

Advocates who appeared in this case:

For the Petitioner : Mr. Anil Mittal, Adv. (through VC)

For the Respondent : Mr. Rikky Gupta, Standing Counsel-DTC with Ms. Ananya Singh, Adv.

CORAM
HON'BLE MR JUSTICE AMIT MAHAJAN

JUDGMENT

1. By the present petition, the petitioner has challenged the correctness of the order dated 17.10.2006 (hereafter '**impugned order**') and the award dated 20.10.2006 (hereafter '**impugned award**') in I.D. No. 316/1999, whereby the learned Labour Court upheld the enquiry and the punishment of removal from service imposed on the petitioner.

2. Briefly stated, the petitioner workman was employed as a conductor with DTC with effect from 29.04.1983. Allegedly, during an inspection conducted on 06.10.1994, it was found that eleven passengers were travelling ticketless on the bus on which the petitioner was on duty, even though the petitioner had collected a sum of ₹124/- as fare from the said passengers.It was also alleged that the petitioner surrendered 11 unpunched tickets of the respective denominations. Pursuant to being found guilty for misconduct in the enquiry stemming from the aforesaid allegations, the petitioner was removed from service with effect from 27.04.1998. The petitioner raised an industrial dispute *qua* his removal from service, which was thereafter referred to the learned Labour Court.

3. By the impugned order, the learned Labour Court determined that the enquiry was conducted in a fair manner by following the principles of natural justice and the petitioner was accorded a proper opportunity to defend himself. Finding that enquiry could not be vitiated merely on account of not counting of cash or non-examination of the passengers, it was held that certain superfluous observations made by the Enquiry Officer in relation to doubt regarding authenticity of charges did not further the case of the petitioner as there was clear evidence against him.

4. By the impugned award, the learned Labour Court found that the misconduct committed by the petitioner was worthy of punishment of removal and declined to interfere with the same.

5. Aggrieved by the same, the petitioner filed the present petition.

6. The learned counsel for the petitioner submitted that the learned Labour Court had failed to appreciate that the checking staff had not complied with the relevant instructions in the present case. He stressed that the cash carried by the petitioner was not checked as is mandated under Office Order dated 28/30.06.1967 and the statements of independent passengers were also not recorded.

7. He submitted that as the cash being carried by the petitioner was not checked, it is not possible to verify the levelled allegations. He submitted that as excess cash was not found in possession of the petitioner, there is a possibility that he was wrongly blamed by certain unscrupulous passengers trying to travel without tickets. He relied on the decisions in ***DTC v. Ram Avtar Sharma*****:2026 SCC OnLine Del 3929** and ***Delhi Transport Corporation v. Shyam Singh*****:2012:DHC:2113-DB** in this regard.

8. He submitted that the instructions issued by DTC itself have to be followed in letter and spirit, and failure to do the same will prejudice the employee in question. He contended that violation of the instructions ought to be construed in favour of the petitioner and even the learned Labour Court has noted that it would have been better if the cash had been counted.

9. He further submitted that the enquiry was conducted in a perfunctory manner and the petitioner was denied a fair opportunity to

defend himself as no independent passengers or ticketless passengers were examined in the enquiry.

10. On the other hand, the learned counsel for DTC submitted that the arguments agitated by the petitioner are insufficient to reverse the well-reasoned findings of the learned Labour Court and the petitioner was a habitual offender.

11. He submitted that checking of cash is not necessary to prove the allegations of non-issuance of tickets, and relied on the decisions in ***UPSRTC v. Suresh Chand Sharma* : (2010) 6 SCC 555**,***Nathi Ram v. Delhi Transport Corporation* : 2018 SCC OnLine Del 12099**and***DTC v. Anup Singh* : 2006 SCC OnLine Del 1065** to support his assertion.

12. He further submitted that the Office Order dated 28/30.06.1967 had been substantially complied, and even otherwise, mere purported non-compliance of a departmental circular will not vitiate enquiry conducted by the employer. He relied on the decisions in ***State of Haryana v. Rattan Singh* : (1977) 2 SCC 491**, ***Ramesh Chand v. DTC* : 2007 SCC OnLine Del 858** and ***DTC v. Harish Chandra* : 2026 SCC OnLine Del 1604** to buttress his argument.

13. He stressed that even a single instance of misappropriation is enough for removing an employee and services of the petitioner had been rightly terminated.

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 notto 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.

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 case is one where the petitioner has mounted his entire challenge against removal from service on the purported non-compliance of Office Order dated 28/30.06.1967, by way of which a questionnaire to be used by checking officials was introduced with a view of standardising procedure. The questionnaire *inter alia* requires for recording of actual cash found on person of conductor (excluding his personal cash) as well as actual cash found in cash bag.

Pertinently, the office order itself mentions that the *performa* was introduced on trial basis and the position was to be reviewed after 3-6 months. It is however unclear if any such review ever came to be conducted. The petitioner is aggrieved that cash was not checked in the present case in compliance with the said circular.

17. Further, although no other office order is annexed in the petition, much stress is laid on non-compliance of circulars dated 12.12.1952, 29.07.1954 and 08.03.1994 in the pleadings. The said circulars form part of the Lower Court Record. Circulars dated 12.12.1952 and 29.07.1954 encapsulate certain instructions to be followed by Bus Checker and Inspector and provide that if a passenger is found travelling without ticket despite having paid fare, an explanation should be sought in presence of conductor and address of such passenger as well as nearby witnesses should be recorded as far as possible. It is further provided that both the conductor as well as the checking staff shall affix their signature on the challan form. By Circular dated 08.03.1994, traffic officers were directed to stress upon the supervisory staff to obtain such statements *as far as possible* in the future.

18. It is thus the case of the petitioner that by failing to check his cash and record statements of passengers in strict compliance of the aforesaid instructions, DTC has deprived the petitioner of a fair opportunity to defend himself whereby the impost punishment cannot be sustained, especially since the passengers were never examined in

enquiry either.

19. Having appraised the particulars of the instructions which are at the center of the dispute in the present case, before delving into effect of gaps created by absence of cash verification and non-examination of passengers, it is imperative to appreciate that it is no more *res integra* that non-compliance with departmental instructions does not *ex facie* vitiate enquiry proceedings.

19.1. Reference in this regard can be made to the decision in ***State of Haryana v. Rattan Singh*** (*supra*) where the passenger statements were not recorded by the Inspector in terms of the departmental instructions. The Hon'ble Apex Court found that the said non-compliance was insufficient to set aside the order of termination and violation of such instructions of prudence do not result in vitiation of proceedings. It was observed that the absence of written statements, though not worthy of approval, was understandable.

19.2. Similarly, in ***Ramesh Chand v. DTC*** (*supra*), when faced with non-compliance of a circular which mandated that the Enquiry Officer should ask the delinquent as to whether he requires assistance on *every date*, a Division Bench of this Court found that the circular merely incorporated a rule of prudence and not a mandatory direction so as to vitiate enquiry.

19.3. Recently, a Coordinate Bench in ***DTC v. Harish Chandra*** (*supra*) found that an office memorandum providing for presence of a

Labour Welfare Officer during enquiry proceedings did not have the force of a statutory rule as the same was merely an internal administrative instruction. It was held that non-compliance thereof would not vitiate enquiry, unless the same has resulted in denial of fair opportunity or caused any prejudice.

19.4. The Instructions at the fore of the dispute in the present case also do not *per se* prescribe any mandatory requirements, but rather, they only provide rules of prudence to standardise procedure. Any violation thereof would not *ipso facto* negate the enquiry proceedings, and absence of such particulars would only have a bearing on the enquiry if there is no other cogent evidence to lead to a finding of guilt.

20. Though statement of independent passengers was not recorded in the present case, the same in the opinion of this Court does not go to the root of the matter, especially since statements of ticketless passengers were recorded in this case and the checking staff supported the allegations. The decision in ***State of Haryana v. Rattan Singh*** (*supra*) makes it clear that there is no allergy to hearsay evidence of checking staff in departmental proceedings, and non-examination of even the ticketless passengers is not fatal to case of employer as long as there is *some evidence* in support of allegations. Pertinently,though the statements of ticketless passengers were recorded in the handwriting of checking staff, the same were also signed by the petitioner. The checking staff duly explained in cross-examination that

the statements were not recorded by the passengers in their hand (despite suggestion to this effect by the checking staff)due to the said passengers being illiterate. It is also relevant to note that DTC made an endeavour to secure presence of the ticketless passengers by issuing notice to them, however, some notices could not be served and some passengers did not appear despite service.In the present case, the management witnesses also consistently maintained that they found eleven passengers to be travelling without tickets and no particular could be unearthed by the petitioner in cross-examination, whereby the learned Labour Court rightly refrained from interfering with the finding of guilt. Thus, non-examination of the passengers does not further the case of the petitioner.

21. Much emphasis is also laid by the petitioner on absence of cash verification as well. 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 witnesses that cash verification was not conducted due to shortage of time and DTC has sought to contest that cash verification is not necessary to prove the allegations of non-issuance of tickets. To determine the effect of absence of cash verification especially in cases centered on non-issuance of tickets, it is thus imperative to first appreciate the law laid down in the judgments which have been relied upon by the parties.

21.1. In ***UPSRTC v. Suresh Chand Sharma***(*supra*), where identical allegations were made against respondent of not issuing tickets to passengers despite collection of fare, the High Court interfered with finding of guilt only on the ground that neither the ticketless passengers were examined nor the cash was checked. The Hon'ble Apex Court set aside the decision of the High Court and restored the finding of guilt after taking note of the decision in ***State of Haryana v. Rattan Singh*** (*supra*) and observing that cogent reasoning is required to interfere with findings recorded by domestic tribunal. Though no specific observations were made therein regarding cash verification, the restoration of finding of guilt clearly reflects that cash verification is not an indispensable requirement.

21.2. In ***DTC v. Anup Singh*** (*supra*), where it was alleged that the accused conductor had not issued tickets despite collecting fare, a Division Bench of this Court found that in the absence of cash verification and examination of any independent witnesses or ticketless passengers, it could not be said that there was enough evidence on record to prove guilt of accused conductor. It was however also observed that examination of passengers themselves may not always be possible and other forms of evidence can prove that fare was collected without tickets being issued, one of which was by tallying cash.

21.3. In ***Delhi Transport Corporation*** **v.** ***Shyam Singh***(*supra*) involving allegations of non-issuance of tickets, a Division Bench of this Court held that misconduct was *inter alia* not proved as the passengers did not support the case of the checking staff in enquiry and cash had not been checked by the checking staff.

21.4. In ***DTC v. Ram Avtar Sharma***(*supra*), the allegations were of non-issuance of tickets. Relying on the decision in ***Delhi Transport Corporation* v. *Shyam Singh***(*supra*), another Division Bench of this Court upheld the reinstatement of the DTC conductor on being weighed by absence of cash verification. It was also found that enquiry was vitiated by non-supply of documents. It is however pertinent to note that this case was one where the recorded statements of passengers were found to be fraught with material inconsistencies and statements of all ticketless passengers were not recorded by checking squad. Further, the oral evidence of checking squad members was found to be inconsistent with recorded passenger statements, which weighed the Court to hold that charge of misconduct was not proved. The relevant portion of the judgment is as under:

> "***29.*** *In the facts of the present case, the Squad intercepted the Bus on 24-4-1992 and found ten passengers travelling without tickets. However, no verification of the cash in the possession of the Respondent was undertaken at the time of such checking.* ***The case of the DTC rests principally on the oral testimony of the Squad members and the un-punched tickets recovered from the Respondent.*** *As correctly noticed by the learned Labour Court and affirmed by the learned Single Judge,* ***the Statements of Passengers were incomplete and suffered from material inconsistencies****. The statements of Mr Zile Singh and Mr Subhash do not disclose the precise point of commencement of travel, the destination, or the fare paid; nor was any statement recorded from the group of five passengers alleged to have travelled from Gurgaon to Badshahpur. Further, the statement of Mr Abhey Singh*

> *lacks credibility, inasmuch as the number of ticketless passengers referred to therein does not tally with the names mentioned.* ***<u>In such circumstances</u>, and in the absence of verification of the cash in the Respondent's possession, the DTC cannot be said to have discharged its burden of proving the charge of "misconduct" by reliable and consistent evidence.***"
>
> (emphasis supplied)

21.5. In ***Nathi Ram v. Delhi Transport Corporation*** (*supra*) where also the allegations were of non-issuance of tickets, relying on the judgment in ***UPSRTC v. Suresh Chand Sharma***(*supra*), a Coordinate Bench of this Court found that absence of cash verification would not dislodge the veracity of testimony of other witnesses.

21.6. None of the aforesaid judgments lay down a rigid principle necessitating cash verification. Thus, it is clear that though absence of cash verification may assume significance in certain circumstances if the other evidence on record is substantially deficient, however, the samewould not *ipso facto* lead to automatic conclusion of vitiation of enquiry. Misconduct may still be proved on strength of other evidence.

22. While cash verification would have undoubtedly further strengthened the case of DTC, as aptly appreciated above, the management witnesses have remained steadfast and this is not a case where the delinquent has been found to be guilty on the basis of no evidence. No particular inconsistencies in evidence of management witnesses in the present case, whereby, mere absence of cash verification or non-examination of independent witnesses does not further the petitioner's case. There is substantial compliance of the departmental instructions and conjectures of unscrupulous passengers

having devised to travel without ticket do not find favour with this Court.Such assertions are insufficient for exercise of extraordinary writ jurisdiction to interfere with concurrent findings of guilt by Enquiry Officer as well as Labour Court.

23. Having found that the finding of the petitioner's guilt is well-reasoned, there is no cause for this Court to take a lenient view in relation to the imposed punishment, especially considering the murky past conduct of the petitioner which is abysmally marred with repeated transgressions.

24. In view of the aforesaid discussion, the present petition is dismissed.

AMIT MAHAJAN, J

SEPTEMBER 16, 2026
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