IN THE HIGH COURTOF DELHIAT NEW DELHI

% ***Judgment Reserved on:28.07.2026***
Judgment Delivered on:16.09.2026
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\# **CNR No.: DLHC011089882010**
\+ **W.P.(C) 4908/2010**
DTC .....Petitioner

versus

HARI SHANKAR ..... Respondent

Advocates who appeared in this case:

For the Petitioner : Ms. Manisha Tyagi, Adv.

For the Respondent : Mr. Navin Kumar, Mr. Sahil Javed, Ms. Ruby and Ms. Prakriti Priya, Advocates.

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HON'BLE MR JUSTICE AMIT MAHAJAN

JUDGMENT

1. By the present petition, the petitioner corporation has challenged the correctness of the award dated 04.12.2009 (hereafter '**impugned award**') in ID No. 176/08/96, whereby the learned Labour Court set aside the enquiry findings against the respondent and awarded him a lump-sum compensation of ₹80,000/- along with reinstatement.

2. Briefly stated, the respondent workman was employed as a

conductor with DTC with effect from 21.05.1985. Allegedly, during an inspection on 29.03.1994, it was found that the respondent had sold old and used tickets to 16 passengers intentionally. Consequently, charge sheet was issued against the respondent, the relevant portion of which is as under:

> "*That on 29.3.94, while you were on duty with Bus No.9783 of Route Khetri to Delhi, your bus was intercepted by the checking staff (vigilance) at Palli Railway Crossing at about 1215 hrs. on opposite direction and found as under:*
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> *A group of 4 passengers was traveling from Kund to Rewari, who have paid a real fare of Rs.6/- each, however you have issued them old and used tickets No.39870, 39879, 39880 and 04695 valid from Khetri Town and Khetri Project for Delhi.*
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> *Another group of 8 passengers was also traveling with tickets No.39872, 39881, 39883, 39885, 39836, 39882, 04693 and 04694 valid from Khetri Town and Project for Delhi, who have paid Rs. 6/- each and you have issued them old and used tickets.*
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> *One passenger was also found traveling with the ticket No.39873 valid from Khetri Town to Delhi, who has paid Rs.9/- to you and you issued them aforesaid used ticket.*
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> *One more group of three passengers was also found traveling with tickets No.39874, 39876 and 39884 valid from Khetri Town to Delhi, who has paid Rs.36/-as Rs.12/- each to you and you issued them the abovesaid used tickets.*
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> *On checking also found in your hand block some other used punched tickets No.39871, 39875, 39877, 39878, 04696, 18421, 18622, 18623, 18629, 18630 and one half ticket No.18624 in your possession.*
>
> *1. You have sold the old and used tickets intentionally.*

> *2. You have caused the financial loss to the corporation.*
> *3. You have tried to betray the official.*
> *4. You have violated the rule and regulations of the corporation.*
> *5. You have lower down the prestige of the corporation."*

3. Pursuant to being found guilty for misconduct in the enquiry stemming from the said allegations, the respondent was dismissed with effect from 10.10.1995. The petitioner raised an industrial dispute *qua* his removal from service, which was thereafter referred to the learned Labour Court.

4. By the impugned award, the learned Labour Court found that there was no violation of the principles of justice in the enquiry proceedings. However, the learned Labour Court was persuaded to set aside the enquiry findings as cash was not checked and there was ambiguity in the record *qua* some of the tickets in question not being stale. Consequently, reinstatement with lump-sum compensation of ₹80,000/- was awarded.

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

6. 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 10.07.2012.

7. The learned Counsel for the petitioner submitted that the impugned award is liable to be set aside as the learned Labour Court

has failed to consider that the respondent had admitted his fault and signed the challan issued on spot. She submitted that the learned Labour Court erred in reappreciating evidence even though enquiry was conducted fairly.

8. She submitted that the material before the enquiry officer was sufficient to prove the charges against the petitioner, and even otherwise, an opportunity should have been given to the petitioner to lead evidence.

9. She further submitted that non-checking of cash does not vitiate enquiry proceedings. She submitted that though some ambiguity was found regarding certain issued tickets being stale, however, the learned Labour Court failed to appreciate that the respondent had failed to give any explanation *qua* other used resold tickets.

10. *Per contra*, the learned Counsel for the respondent has vehemently contested that the learned Labour Court has passed a well-reasoned order. He submitted that the respondent has consistently maintained that he was falsely implicated due to his refusal to comply with the unjust bribe demands by the Vigilance staff. He submitted that though the allegations pertained to issuance of used tickets, but the specific details of the tickets issued in upward and downward directions of the bus route were not provided. He submitted that as the cash was admittedly never checked, the allegation of purported misappropriation cannot be sustained.

11. He submitted that no further opportunity could be granted to DTC to lead further evidence in absence of a specific request being made by DTC in this respect.

ANALYSIS

12. 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 to 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.

13. 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.

14. The short dispute that is to be determined in this case is whether the learned Labour Court was justified in interfering with the enquiry

findings, and whether it was incumbent on the Labour Court to accord an opportunity to DTC to lead evidence before interfering in such a manner.

15. Insofar as the issue of DTC being denied an opportunity to lead evidence on merits is concerned, the learned Labour Court has rightly relied on the decision in ***Karnataka SRTC v. Lakshmidevamma*:(2001) 5 SCC 433** to find that DTC could not seek an opportunity to this effect at that juncture as it had failed to make any prayer for such permission. In the said case, the Hon'ble Apex Court was dealing with the issue of whether an employer needs to seek liberty to prove misconduct in written statement. It was held that right of a management to lead evidence on merits in justification of its decision under consideration is not a statutory right. The procedure prescribed in ***Shambhu Nath Goyal v. Bank of Baroda*:(1983) 4 SCC 491** that such right to lead additional evidence is to be exercised by making a proper request while filing written statement or making an application seeking approval of action taken by it, was approved as just and fair and it was found that the same eliminates likely delay. The relevant portion of the judgment is as under:

> *"**15.** The question again arose in the case of **Shambhu Nath Goyal case [(1983) 4 SCC 491 : 1984 SCC (L&S) 1 : (1984) 1 SCR 85]** as to the propriety of waiting till the preliminary issue was decided to give an opportunity to the management to adduce evidence, because after the decision in the preliminary issue on the validity of the domestic enquiry, either way, there was nothing much left to be decided thereafter. Therefore, in Shambhu Nath Goyal case [(1983) 4 SCC 491 : 1984 SCC (L&S) 1 : (1984) 1 SCR 85] this Court once again considered the said question in a different*

perspective. In this judgment, the Court after discussing the earlier cases including that of Shankar Chakravarti v. Britannia Biscuit Co. Ltd. [(1979) 3 SCC 371 : 1979 SCC (L&S) 279 : (1979) 3 SCR 1165] which was a judgment of this Court subsequent to that of Cooper Engg. [(1975) 2 SCC 661 : 1975 SCC (L&S) 443 : (1976) 1 SCR 361] laid down the following principles: (SCC p. 506, para 16)

> *"16. We think that the application of the management to seek the permission of the Labour Court or Industrial Tribunal for availing the right to adduce further evidence to substantiate the charge or charges framed against the workman referred to in the above passage is the application which may be filed by the management during the pendency of its application made before the Labour Court or Industrial Tribunal seeking its permission under Section 33 of the Industrial Disputes Act, 1947 to take a certain action or grant approval of the action taken by it. The management is made aware of the workman's contention regarding the defect in the domestic enquiry by the written statement of defence filed by him in the application filed by the management under Section 33 of the Act. Then, if the management chooses to exercise its right it must make up its mind at the earliest stage and file the application for that purpose without any unreasonable delay.* ***But when the question arises in a reference under Section 10 of the Act after the workman had been punished pursuant to a finding of guilt recorded against him in the domestic enquiry there is no question of the management filing any application for permission to lead further evidence in support of the charge or charges framed against the workman, for the defect in the domestic enquiry is pointed out by the workman in his written claim statement filed in the Labour Court or Industrial Tribunal after the reference had been received and the management has the opportunity to look into that statement before it files its written statement of defence in the enquiry before the Labour Court or Industrial Tribunal and could make the request for the opportunity in the written statement itself.<u>If it does not choose to do so at that stage it cannot be allowed to do it at any later stage of the proceedings by filing any application for the purpose which may result in delay which may lead to wrecking the morale of the workman</u>***

<u>and compel him to surrender which he may not otherwise do.</u>"

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17. Keeping in mind the object of providing an opportunity to the management to adduce evidence before the Tribunal/Labour Court, we are of the opinion that the directions issued by this Court in Shambhu Nath Goyal case [(1983) 4 SCC 491 : 1984 SCC (L&S) 1 : (1984) 1 SCR 85] need not be varied, <u>being just and fair</u>.There can be no complaint from the management side for this procedure because this opportunity of leading evidence is being sought by the management only as an alternative plea and not as an admission of illegality in its domestic enquiry. *At the same time, it is also of advantage to the workmen inasmuch as they will be put to notice of the fact that the management is likely to adduce fresh evidence, hence, they can keep their rebuttal or other evidence ready.* ***This procedure also eliminates the likely delay in permitting the management to make belated application whereby the proceedings before the Labour Court/Tribunal could get prolonged.*** *In our opinion, the procedure laid down in Shambhu Nath Goyal case [(1983) 4 SCC 491 : 1984 SCC (L&S) 1 : (1984) 1 SCR 85] is just and fair.*

18. *There is one other reason why we should accept the procedure laid down by this Court in Shambhu Nath Goyal case [(1983) 4 SCC 491 : 1984 SCC (L&S) 1 : (1984) 1 SCR 85] . It is to be noted that this judgment was delivered on 27-9-1983. It has taken note of almost all the earlier judgments of this Court and has laid down the procedure for exercising the right of leading evidence by the management which we have held is neither oppressive nor contrary to the object and scheme of the Act. This judgment having held the field for nearly 18 years, in our opinion, the doctrine of stare decisis requires us to approve the said judgment to see that a long-standing decision is not unsettled without a strong cause."*

16. Now on merits, in this case, the learned Labour Court has upheld the fairness and validity of the domestic enquiry. It is well-settled that once an enquiry is found to be fair and in compliance with principles of natural justice, the scope of interference by Labour Court is further narrowed. That is not to say that findings are entirely galvanised from judicial scrutiny, but interference is only permissible

if the conclusion is based on no evidence or the findings are manifestly perverse. In this case, the learned Labour Court has deemed it appropriate to set aside the punishment imposed on the workman on account of absence of cash verification coupled with ambiguity in evidence of management witnesses.

17. This Court had the cause to delve into effect of absence of cash verification in another matter, being, ***Mahesh Chand v. DTC*** **:W.P.(C) 2399/2007**, which is also pronounced today. After appraising relevant precedents on this issue, this Court has ultimately concluded that absence of cash verification does not *ipso facto* vitiate an enquiry and finding of guilt can indeed be sustained without the same as well. The relevant portion of the judgment is reproduced hereunder:

> *"21…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. In such circumstances, 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 same would not ipso facto lead to automatic conclusion of vitiation of enquiry. Misconduct may still be proved on strength of other evidence****."*

(emphasis supplied)

18. Thus, mere absence of cash verification is not sufficient to vitiate the findings in enquiry proceedings. Be that as it may, the present case is one where the learned Labour Court had found that DTC was unable to establish that the tickets in question were stale to begin with so as to sustain the finding of guilt for misconduct. In this regard, the following observations were made by the Labour Court:

"13. From the report made by the checking staff, I find that the used tickets 39871, 39875, 39877, 39878, 4696, 18621, were found in the possession of the conductor. It is also at para 3 of the report

that ticket number 39873 valid from Khetri to Delhi was with one passenger and at para 4 it is mentioned that ticket number 39874, 39876 and 39884 valid were found with three lady passengers. These tickets were valid from Khetri to Delhi but the lady passengers reported to the checking staff that they boarded from Narnol to Rewari.

14. It is the case of the management that as per the checking report at Ex. MW 1/3, the bus was plying from Khetri to Delhi DN. From the record with the management, I find from the way bill (MARG PATRA 5011596) that the ticket numbers 39870-39876 were issued from Khetri to Delhi. If this is the document of way bill being MARG PATRA, it becomes difficult to hold that these tickets were stale as contended by the checking staff. Even the management witnesses examined before the enquiry have not given the details of the tickets valid for UP direction and DN direction. In the absence of clarity by the management witnesses with regard to what were the tickets which were stale and what were the tickets valid to have been issued by the conductor, it becomes very difficult to sustain the findings merely based on the generalised statement made by the management witnesses in the enquiry."

19. The principal charge against the Respondent was that he had intentionally re-issued/re-sold used tickets to passengers and was found in possession of several used tickets during the vigilance checking.

20. The checking report prepared by the Inspection Squad contemporaneously records the ticket details and that, when confronted along with the passenger the Respondent admitted his fault and he was also found in possession of used/punched tickets. The report also enclosed the Tickets seized/ surrendered during the checking and the statements of the passengers, which were also signed by the Respondent. Notably, the Respondent did not dispute possession of the old tickets, rather stated that the old tickets were of

the passengers whose fare had been refunded as the bus had broken down. Significantly, the checking report also bears the signatures of the Respondent. The Respondent has not disputed his signatures appearing thereon either during the departmental proceedings or before the Labour Court. It is not a case where a defence has been taken that his signatures were forcefully obtained. It is also recorded in the charge-sheet that the checking report is enclosed with it and was thus furnished to the Petitioner. Thus, the contemporaneous document coupled with his admission, constituted relevant material before the Enquiry Officer while arriving at the conclusion that the charges of misconduct i.e. 19 (B) and 19 (F) (i.e. dishonesty in connection with the Authority business or property and breach of rules, law instructions applicable to the Authority) stood established on the standard of proof of preponderance of probabilities.

21. Equally significant is the fact that although the Respondent sought to explain the checking report by alleging that the vigilance officials had falsely implicated him because he refused to pay illegal gratification of Rs. 200/-, no material whatsoever was placed on record to substantiate such allegation. Admittedly, no contemporaneous complaint was lodged before any superior authority alleging demand of bribe by the checking staff. The plea remained a bald assertion unsupported by any record or independent evidence. In absence thereof, the Enquiry Officer cannot be faulted for declining to accept such explanation.

22. The learned Labour Court proceeded to hold that the charge was not established since the management had not produced particulars regarding the validity of tickets for the upward and downward journey, nor verified the excess cash allegedly collected by the Respondent. In the opinion of this Court, the said approach proceeds on an erroneous standard of proof. 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, the undisputed signatures of the Respondent thereon, the recovery of used tickets from his possession and the admission recorded therein, the Enquiry Officer could reasonably arrive at the conclusion that the charges stood proved.

23. It is also imperative to note that it was the case of the respondent workman that the used tickets were available with him as the bus was slow due to some technical issue, due to which, he had to return fare of some passengers on their persistence. In his defence, the respondent had examined the driver of the bus namely Ramesh, who asserted that the respondent was not at fault and deposed that the passengers had turned against them as the respondent could not return their fare amount as he did not have the required change. Be that as it may, the evidence of the driver in this regard cannot surmount the other incriminating factors levelled against the respondent, especially since there is nothing in his evidence to credence the respondent's allegations of false implication on account of failure to meet any

purported demand of illegal gratification.

24. Further, the findings of the Enquiry Officer are founded not merely on the testimony of the vigilance officials, but also on the checking report, the passenger statements recorded as part of the challan itself, the recovery of old/resold tickets from the Respondent's possession, the undisputed signatures of the Respondent on the challan, the passenger statements recorded therein, and perusal of the Way Bill Book. The charge thus stood established on the touchstone of preponderance of probabilities on the basis of the material available before the Enquiry Officer.

25. It is well settled that sufficiency or adequacy of evidence is not a matter for judicial review once there exists some evidence supporting the disciplinary authority's conclusion. The Labour Court, while holding the enquiry to be fair and proper, virtually undertook a fresh appreciation of evidence and substituted its own conclusions by insisting upon further corroborative material. Such an exercise travels beyond the permissible limits of judicial scrutiny over departmental proceedings.

26. Consequently, this Court is of the considered opinion that the findings recorded by the learned Labour Court setting aside the enquiry findings cannot be sustained. The impugned Award dated 04.12.2009 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.

27. Accordingly, the Award dated 04.12.2009 passed by the learned Labour Court in I.D. No.176/08/96 is hereby set aside. Consequently, the sum of ₹80,000/- which was deposited before this Court by DTC in terms of interim order dated 26.07.2010 is directed to be released in favour of DTC along with accrued interest, if any, within a period of 4 weeks.

28. 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.

29. The writ petition stands allowed in the aforesaid terms. Pending applications, if any, also stand disposed of.

AMIT MAHAJAN, J

SEPTEMBER 16, 2026
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