



2026:DHC:7884



IN THE HIGH COURT OF DELHI AT NEW DELHI

% *Judgment Reserved on: 30.07.2026*
Judgment Delivered on: 16.09.2026
Judgment Uploaded on: 16.09.2026

CNR No. DLHC010269902003

+ W.P.(C) 6699/2003

THE MANAGEMENT OF M/S D.T.C.Petitioner
versus
NARESH KUMAR & ANR.Respondents

CNR No. DLHC011176882011

+ W.P.(C) 7630/2011

D.T.C.Petitioner
versus
NARESH KUMARRespondent

Advocates who appeared in this case:

For the Petitioner(s) : Mr. Uday N. Tiwary and Mr. Akshat
Tiwary, Advs.
For the Respondent(s) : Mr. Ravikesh K. Sinha, Adv. for R-Naresh
Kumar.

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HON'BLE MR JUSTICE AMIT MAHAJAN

JUDGMENT

1. By the present petitions, the petitioner corporation seeks to respectively challenge the correctness of the following orders centered around the issue of the workman's removal from service:



1.1. Order dated 13.11.2002 in O.P. No. 554/92, whereby the learned Industrial Tribunal rejected the application filed by the petitioner corporation under Section 33(2)(b) of the Industrial Disputes Act, 1947 (**'ID Act'**) and declined approval for removal of the respondent workman from service; and

1.2. Award dated 09.11.2009 in ID No. 168/08/95, whereby the learned Labour Court held that the respondent's removal from service was unjustified and directed that he be reinstated albeit without back wages.

2. It bears relevance to note that the respondent workman expired during the pendency of the writ petitions in the year 2016 and by separate order dated 06.02.2017, the legal representative of the respondent workman was brought on record who is pursuing the present petition.

3. The material facts germane to the determination of the present cases are as follows:

3.1. The workman joined the petitioner corporation as a conductor with effect from 17.03.1985. Allegedly, during an inspection on 08.06.1991, it was found that two passengers were travelling ticketless on the bus on which the workman was on duty, even though they had paid the requisite fare to the workman. It was alleged that the workman refused to sign the challan or hand over the way bill, and he also misbehaved with the checking staff. On 21.06.1991, a charge sheet was issued against the workman encapsulating the aforesaid allegations. The Enquiry Officer found that all allegations were proven



except that the workman had threatened the checking staff on being weighed by a number of factors, including the reply sent by the passenger through post along with the signature of the driver on challan.

3.2. Pursuant to being found guilty in the domestic enquiry, the penalty of removal from service was imposed on the workman *vide* order dated 24.11.1992.

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3.3. As the demand of DTC workers for implementation of 4th Pay Commission Report was pending adjudication before the Industrial Tribunal, an application was filed by DTC for approval of its decision to remove the workman from service on 24.11.1992 itself. By order dated 20.11.2000, it was found that the enquiry proceedings were perverse as the same was based on incomplete record in the absence of defence statement of the workman. Thereafter, evidence was led by the parties *qua* issue of misconduct. By the impugned order dated 13.11.2002, the learned Tribunal dismissed the application for approval on finding that misconduct was not proved from the produced evidence. The learned Tribunal was particularly weighed by the evidence of AW-2 Ami Lal (one of the checking officers) which reflected that the payment of fare charges to the workman did not take place in presence of the checking staff, the challan as well as passenger statement did not bear the signature of the workman or any endorsement that the workman had refused to sign the said documents and address of concerned passenger was also not recorded.



3.4. Aggrieved by the said order, the petitioner corporation filed the present petition. By order dated 14.09.2005, this Court, in the application preferred by the workman under Section 17B of the Industrial Disputes Act, 1947 directed DTC to pay wages to the respondent workman at the higher of the two rates between last drawn wage and the minimum wage.

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3.5. An industrial dispute was also raised by the workman against his removal from service, which was referred to the learned Labour Court. By the impugned award dated 09.11.2009, the learned Labour Court found that the enquiry was in violation of the principles of natural justice as no presenting officer or Labour Welfare Officer was present and the documents were not supplied to the workman. Consequently, as DTC had not prayed for permission to lead evidence on merits, the learned Labour Court examined the record and found that misconduct was not proved due to absence of oral evidence of the concerned passenger and due to non-checking of cash. It was found that reply sent by the passenger Dharam Singh through post had been erroneously relied upon by the enquiry officer as the same had not been supplied to the workman and it remained unsupported by direct oral evidence. Consequently, the workman was directed to be reinstated with no back wages and litigation expenses of ₹25,000/- were awarded.

4. Aggrieved by the said order, the petitioner corporation filed the said petition.



5. The learned counsel for the petitioner submitted that the workman had duly participated in the enquiry proceedings and the learned Labour Court as well as the learned Tribunal erroneously noted that the enquiry proceedings were vitiated due to violation of principles of natural justice.

6. He submitted that there was sufficient evidence to prove misconduct in the form of the copy of checking staff report, copy of tickets, challan and passenger statement which was signed by the driver. He submitted that strict rules of evidence do not apply to disciplinary proceedings and the workman's past conduct warranted removal from service.

7. He further submitted that checking of cash is not the only method to prove misappropriation as alleged in the present case, and the same cannot be said to be fatal to the case of the petitioner.

8. He submitted that the learned Tribunal had erroneously noted in order dated 20.11.2000 (in the proceedings instituted under Section 33 of the ID Act) that departmental proceeding was vitiated in absence of closing statement.

9. He submitted that the learned Labour Court also erred in failing to appreciate that the workman did not insist upon supply of requisite documents and no prejudice was caused to him so as to nullify the enquiry proceedings. He submitted that the Labour Welfare Officer was present on 30.09.1992. He further submitted that even otherwise, mere purported absence of presenting officer or some procedural irregularity does not vitiate an enquiry either so long as the delinquent



is afforded a fair opportunity to defend his case.

10. *Per contra*, the learned counsel for the workman submitted that the learned Labour Court as well as the learned Tribunal had rightly taken note of the infirmities in the case of DTC and decided in favour of the workman. He submitted that the impugned orders are well-reasoned and the allegations against the workman were concocted and the enquiry was manifestly perverse as the relied documents were never supplied to the workman. He further submitted that order dated 20.11.2000, whereby the Tribunal found the proceedings to be perverse, was never challenged and the same had attained finality. He further submitted that the evidence of another conductor of Haryana Roadways was disbelieved in enquiry without reason and the passenger's reply tendered through post is insufficient to prove the charges, especially since cash was also not checked.

ANALYSIS

11. 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.

12. 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.

13. Before appraising the merits of the present case, it is also apposite to take note of the scope of interference that is permissible by Labour Court/ Tribunal. Proceedings under Section 33(2) of the ID Act are summary in nature and the purpose of the same is to safeguard workman against alteration of terms of service and punitive measures during pendency of an industrial dispute. The Tribunal/ Labour Court is only required to oversee as to whether the domestic enquiry was conducted in a fair and proper manner in accordance with principles of natural justice, and if a *prima facie* case for dismissal is made out. For the said purpose, the Tribunal/ Labour Court has to appraise the record of enquiry, though it can permit the parties to adduce their respective evidence before it in case the domestic enquiry suffers from any defect. Such proceedings are however not on par with the jurisdiction to adjudicate an industrial dispute *qua* termination under Sections 10 read with Sections 11(3) and 11-A of the ID Act, where the Tribunal/ Labour Court is also empowered to delve into issue of proportionality of punishment and to appraise the dispute in detail to discern any



palpable perversity. Reference in this regard can be made to the judgment in *John D'Souza v. Karnataka State Road Transport Corporation* : (2019) 18 SCC 47, where it was held as under:

“23. Section 33(2)(b) of the Act, thus, in the very nature of things contemplates an enquiry by way of summary proceedings as to whether a proper domestic enquiry has been held to prove the misconduct so attributed to the workmen and whether he has been afforded reasonable opportunity to defend himself in consonance with the principles of natural justice. As a natural corollary thereto, the Labour Court or the forum concerned will lift the veil to find out that there is no hidden motive to punish the workman or an abortive attempt to punish him for a non-existent misconduct.

24. The Labour Court/Tribunal, nevertheless, while holding enquiry under Section 33(2)(b), would remember that such like summary proceedings are not akin and on a par with its jurisdiction to adjudicate an “industrial dispute” under Sections 10(1)(c) and (d) of the Act, nor the former provision clothe it with the power to peep into the quantum of punishment for which it has to revert back to Section 11-A of the Act. Where the Labour Court/Tribunal, thus, do not find the domestic enquiry defective and the principles of fair and just play have been adhered to, they will accord the necessary approval to the action taken by the employer, albeit without prejudice to the right of the workman to raise an “industrial dispute” referable for adjudication under Section 10(1)(c) or (d), as the case may be. It needs pertinent mention that an order of approval granted under Section 33(2)(b) has no binding effect in the proceedings under Sections 10(1)(c) and (d) which shall be decided independently while weighing the material adduced by the parties before the Labour Court/Tribunal.

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30. This Court in the above cited decisions has, in no uncertain terms, divided the scope of enquiry by the Labour Court/Tribunal while exercising jurisdiction under Section 33(2)(b) in two phases. Firstly, the Labour Court/Tribunal will consider as to whether or not a prima facie case for discharge or dismissal is made out on the basis of the domestic enquiry if such enquiry does not suffer from any defect, namely, it has not been held in violation of principles of natural justice and the conclusion arrived at by the employer is bona fide or that there was no unfair labour practice



or victimisation of the workman. This entire exercise has to be undertaken by the Labour Court/Tribunal on examination of the record of enquiry and nothing more. In the event where no defect is detected, the approval must follow. The second stage comes when the Labour Court/Tribunal finds that the domestic enquiry suffers from one or the other legal ailment. In that case, the Labour Court/Tribunal shall permit the parties to adduce their respective evidence and on appraisal thereof the Labour Court/Tribunal shall conclude its enquiry whether the discharge or any other punishment including dismissal was justified. That is the precise ratio decidendi of the decisions of this Court in (i) Punjab National Bank Ltd. [Punjab National Bank Ltd. v. Workmen, (1960) 1 SCR 806 : AIR 1960 SC 160] , (ii) Mysore Steel Works (P) Ltd. [Mysore Steel Works (P) Ltd. v. Jitendra Chandra Kar, (1971) 1 LLJ 543 SC] and (iii) Lalla Ram [Lalla Ram v. DCM Chemical Works Ltd., (1978) 3 SCC 1 : 1978 SCC (L&S) 396] cases.

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33. It, thus, stands out that though the Labour Court or the Tribunal while exercising their jurisdiction under Section 33(2)(b) are empowered to permit the parties to lead evidence in respect of the legality and propriety of the domestic enquiry held into the misconduct of a workman, such evidence would be taken into consideration by the Labour Court or the Tribunal only if it is found that the domestic enquiry conducted by the management on the scale that the standard of proof required therein can be “preponderance of probability” and not a “proof beyond all reasonable doubts” suffers from inherent defects or is violative of principles of natural justice. In other words, the Labour Court or the Tribunal cannot without first examining the material led in the domestic enquiry jump to a conclusion and mechanically permit the parties to lead evidence as if it is an essential procedural part of the enquiry to be held under Section 33(2)(b) of the Act.”

(emphasis supplied)

14. The dispute in the present cases revolves around termination of the respondent pursuant to him being found guilty of misconduct as he did not issue tickets to certain passengers despite receipt of fare.

15. In both the proceedings, the learned Labour Court as well as the learned Tribunal have respectively found that the enquiry was



conducted in violation of principles of natural justice. Pertinently, DTC did not challenge the order dated 20.11.2000 in the proceedings arising out of application for approval, whereby it was held that the enquiry report was perverse in absence of defence statement of the workman, especially since there was no proof of service of notice on workman to give his final statement. The evidence of defence witness Harish Chander (conductor of Haryana Roadways) was also not considered in enquiry proceedings. Apart from the said infirmity, as noted by the learned Labour Court in the impugned award, though the enquiry was deferred for non-supply of documents on 23.08.1991, there was no subsequent noting that such supply was effected and there is undisputedly no evidence to show that the workman was ever intimated that he could collect the requisite documents. Though it is rightly pointed out that the Labour Welfare Officer was present on one date of hearing and his absence is insufficient to vitiate enquiry, the non-supply of crucial documents, including a reply sent by concerned passengers, *ex facie* results in violation of principles of natural justice. The said irregularity cannot be brushed aside as a mere procedural irregularity merely because the workman continued to participate in the proceedings despite the same. In such circumstances, the enquiry proceedings were rightly held to be vitiated.

16. Insofar as merits of the case are concerned, pertinently, DTC did not pray for permission to lead evidence on merits in the proceedings under Section 10 of the ID Act, however, it examined two witnesses in the proceedings under Section 33 of the ID Act to prove



misconduct.

17. Though it is stressed that there was sufficient evidence to prove the misconduct on preponderance of probabilities, having appraised the evidence on record, this Court finds that DTC has abysmally failed to carve out a case against the workman.

18. The allegation against the workman is that two ticketless passengers were found on inspection with Haryana Roadways Tickets, who had told the checking staff that they had boarded the bus as their previous bus had broken down and the conductor/ respondent had not issued tickets despite being asked. It was DTC's case that the workman had admitted his fault but refused to hand over documents or accept challan, and he had also misbehaved with staff. One of the major points of consideration is that the challan as well as passenger statements do not bear the signature of the workman in this case, despite which, the Enquiry officer was weighed to find that the challan was issued before release of bus on strength of signature of the driver Jagdish. It is imperative to note that the said driver had deposed in enquiry that his signatures had been taken on blank paper, and the said assertion cannot be brushed aside merely due to absence of a complaint in this regard. As the challan also bore the statement of the passengers, the denial by the driver to corroborate the same casts a shadow on the case of DTC.

19. The reply sent by an independent passenger- Dharam Singh was discarded by the learned Labour Court as the same was never put to the workman. Even otherwise, the said witness has only stated that



certain passengers had boarded the bus and paid the fare, whereafter the bus was intercepted for inspection when the conductor had gone to the front to collect tickets for issuance. Though his version may be at variance with the defence of the workman that passengers of Haryana Roadways were accommodated due to break down of bus, as also corroborated by the conductor of that bus- Harish Chand, the same clearly does not indicate that the workman was refusing to issue tickets after receipt of fare. The said passenger also did not witness issuance of challan or any repeated requests by other passengers for tickets as is alleged. The said aspects have hollowed the very foundation of allegations.

20. The learned Tribunal was also rightly weighed to find that misconduct was not made out after appraising the additional evidence led before it, wherein one checking staff witness *inter alia* deposed that statement of concerned passenger Jeet Singh, which appeared on challan, did not bear signature of checking staff and address of the said passenger was not recorded. Further, the witness had also deposed that it was recorded nowhere that the said passenger had refused to give his address.

21. It is further stressed that the learned Labour Court and the learned Tribunal were erroneously weighed by absence of cash verification. In this regard, reference can be made to the decision in ***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 unpunched 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)

22. Though cash verification is not the sole method of establishing misconduct, in the circumstances of the present case where enquiry is vitiated due to non-supply of documents and evidence is plagued with substantial infirmities, the same assumes significance and it cannot be held that charge of misconduct is proved against the workman.

23. In view of the aforesaid discussion, as the findings of the learned Labour Court and the learned Tribunal are well-reasoned and plausible, this Court finds no reason to exercise its extraordinary writ jurisdiction to interfere with the impugned award or the impugned order to the extent of vitiation of enquiry and the termination of the respondent being unjustified.

23.1. However, it is pertinent to note that the respondent workman had expired way back in the year 2016 itself. Further, the termination dates back to the year 1992. Pursuant to the order dated 14.09.2005, the respondent workman was being paid subsistence allowance in accordance with Section 17B of the Industrial Tribunal Act, 1947. Considering the peculiar facts of this case and that the workman served with DTC for only around 6-7 years, this Court is of the opinion that a lump-sum compensation of ₹3,00,000/- will meet the



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ends of justice.

23.2. Let the said amount be paid to the legal heir(s) of the workman within a period of four weeks.

24. The impugned order is upheld to the aforesaid extent and the impugned award is modified.

25. A copy of this judgment be placed in both the matters.

AMIT MAHAJAN, J

SEPTEMBER 16, 2026

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