



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

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Judgment reserved on: 22.01.2026

Judgment delivered on: 23.05.2026

+ **LPA 972/2024 & CM APPL. 57378/2024**

DELHI TRANSPORT CORPORATION

.....Appellant

Versus

RAM AVTAR SHARMA

.....Respondent

Advocates who appeared in this case

For the Appellant : Mr. Rahul Kumar Verma, Mr. Raj Shekhar Awasthi and Ms. Bhumi Panjwani, Advocates.

For the Respondent : Mr. Vikram Singh, Advocate.

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE TEJAS KARIA

JUDGMENT

TEJAS KARIA, J

1. The present Letters Patent Appeal has been filed challenging the order dated 14.05.2024 (“**Impugned Order**”) passed in W.P.(C) No. 6785/2011 (“**Writ Petition**”) titled as ‘*Delhi Transport Corporation v. Ram Avtar Sharma*’, whereby the Writ Petition filed by the Appellant was dismissed.



FACTUAL MATRIX

2. The Respondent, Mr. Ram Avtar Sharma, entered the service of the Appellant, Delhi Transport Corporation (“DTC”), as a daily-rated Conductor on 30.07.1983 and was subsequently placed on monthly-rated service on 30.01.1984. The Respondent was last posted at Okhla Depot-I of the DTC.

3. On 24.04.1992, the Respondent was on duty on Bus No. 6214 operating on the Shivaji Stadium-Sohna route (“Bus”). At about 8:00 PM, the Vigilance Checking Squad (“Squad”) intercepted the Bus at Badshahpur, where a group of five passengers was found travelling without tickets. Upon being questioned by the Squad, the said passengers stated that they had paid the requisite fare to the Respondent. On further enquiry, the Respondent admitted his lapse in not issuing the tickets, and, upon search conducted by the Squad, un-punched tickets bearing Nos. 66667 to 66671 of ₹2/- each were recovered from his possession.

4. The Squad, thereafter, undertook a further inspection of the Bus and found five additional passengers travelling without tickets. Upon enquiry, those passengers also stated that they had paid the fare to the Respondent, though no tickets had been issued to them. On examination of the ticket hand block, the Squad recovered from the Respondent un-punched tickets for travel from Gurgaon to Bhondasi bearing Nos. 82297 to 82299 and Nos. 83312 to 83313.

5. Upon receipt of the inspection report, the Respondent was placed under suspension and a chargesheet was issued to him. The reply submitted by the Respondent to the chargesheet was found to be unsatisfactory, whereupon the matter was referred to the Enquiry Officer (West), Enquiry



Office (“**Enquiry Officer**”), for a detailed enquiry. In the said enquiry, the charges of ‘misconduct’ were held to have been established *vide* final enquiry report dated 29.10.1993 (“**Enquiry Report**”). Based on the Enquiry Report, the Appellant removed the Respondent from the services with effect from 19.10.1994 *vide* Memo No. OD-I/AIT/C-66/94/1929 dated 17.10.1994 (“**Dismissal Order**”).

6. Aggrieved by the Dismissal Order, the Respondent challenged the same before the learned Labour Court, Karkardooma Courts, Delhi (“**Labour Court**”). The learned Labour Court, *vide* order dated 02.09.2009 (“**Labour Court Order**”) and award dated 03.05.2010 (“**Award**”), set aside the punishment of removal and directed the DTC to reinstate the Respondent with continuity of service for the purposes of seniority, pension, gratuity and other consequential benefits, though without back wages.

7. The Appellant assailed the Award and the Labour Court Order before this Court by instituting the Writ Petition. During the pendency of the Writ Petition, the Respondent filed an application being C.M. No. 10178/2013 under Section 17B of the Industrial Disputes Act, 1947 (“**Act**”), which came to be allowed *vide* order dated 07.02.2014.

8. Thereafter, *vide* the Impugned Order, the learned Single Judge dismissed the Writ Petition and upheld the Award as well as the Labour Court Order. Aggrieved thereby, the Appellant has preferred the present Appeal.

SUBMISSIONS ON BEHALF OF THE APPELLANT

9. Mr. Rahul Kumar Verma, the learned Counsel for the Appellant made the following submissions:



- 9.1. There was no violation of the principles of natural justice during the enquiry proceedings, and the Respondent cannot be permitted to derive any benefit from his own misconduct.
- 9.2. The learned Labour Court erred in holding that the Respondent was not afforded an adequate opportunity to defend himself. The Enquiry Report records that the Respondent did not bring any co-worker to assist him during the enquiry proceedings, which recording bears the Respondent's signature and was not objected to by him at any stage. The Respondent also participated in the proceedings by cross-examining the witnesses.
- 9.3. Further, in the enquiry proceedings dated 30.08.1993, it was specifically recorded that the Respondent declined the assistance of either a co-worker or the Labour Commissioner, which was duly acknowledged by him. Likewise, in the proceedings dated 15.09.1993, it was again recorded that the Respondent declined to call a co-worker and refused the assistance offered by the Labour Commissioner, which endorsement was also signed by him.
- 9.4. The Respondent had a history of collecting fares from passengers without issuing tickets, thereby causing loss to the DTC, as is evident from his past record. The learned Single Judge has in the Impugned Order observed that the Respondent is not entitled to back wages in view of his past record. The learned Labour Court had likewise declined to award back wages to the Respondent on the same basis.



- 9.5. The Award records that the Respondent's past record would be taken into consideration while passing the final order or making a recommendation. However, the Enquiry Report itself contains no reference to the Respondent's past record.
- 9.6. The learned Labour Court and the learned Single Judge erred in holding that the Appellant had failed to supply the Log Book, Driver Memo and Statements of Passengers. The presence of the Squad was admitted by the Respondent in his cross-examination before both the Enquiry Officer and the learned Labour Court. In the course of such cross-examination, the Respondent stated: *"It is correct that my bus was checked on 24.04.1992. It is correct that a challan was issued against me and I put my signature as per direction"*.
- 9.7. Insofar as the Driver Memo is concerned, the Enquiry Officer held the same to be unnecessary or irrelevant. The Respondent also did not summon the driver of the Bus in his defence during either the enquiry proceedings or the trial, though the said driver was separately impleaded in the case. As regards the Statements of Passengers, only the Squad members appeared and were cross-examined in detail by the Respondent. All relevant documents were supplied to the Respondent along with the chargesheet against his signature, which fact was also admitted by the Respondent during his cross-examination at trial.
- 9.8. The learned Single Judge further erred in observing that the learned Labour Court had found that the statements of Mr. Zile



Singh and Mr. Subhash did not mention the exact starting point, the destination, or the fare paid by the passengers, and that no statement had been recorded from the group of five passengers who travelled from Gurgaon to Badshahpur. Accordingly, the starting and ending points of travel, together with the names and signatures of the passengers, stand recorded in Paragraph No. 15 of the Award.

- 9.9. The learned Single Judge also failed to appreciate that the Statements of Passengers were recorded in a moving Bus and bore the Respondent's signature.
- 9.10. The Appellant has relied upon the following judgments while making the above submissions:
- a. *State of Haryana & Another v. Rattan Singh*, (1977) 2 SCC 491;
 - b. *Nathi Ram v. Delhi Transport Corporation*, 2018 SCC OnLine Del 12099;
 - c. *Biri Singh v. Delhi Transport Corporation*, 2022 SCC OnLine Del 3066;
 - d. *Delhi Transport Corporation v. Shree Kumar*, 113 (2004) DLT 505;
 - e. *Shyam Sunder v. Delhi Transport Corporation*, 45 (1991) DLT 271; and
 - f. *Kishori Lal v. Delhi Transport Corporation*, 2011 SCC OnLine Del 1291.
- 9.11. In view of the above, it was prayed that the Impugned Order be set aside and the present Appeal shall be allowed.



SUBMISSIONS ON BEHALF OF THE RESPONDENT

10. Mr. Vikram Singh, the learned Counsel for the Respondent made the following submissions:

- 10.1. The Respondent contended that, although un-punched tickets were taken into possession by the Squad, in reply to the chargesheet, the Respondent specifically denied the allegations and asserted that the charges were false and fabricated.
- 10.2. The Squad neither produced any co-passenger as a witness nor recorded statements of the ticketless passengers. The cash in the possession of the Respondent was not checked. The allegation that the Respondent admitted his fault and voluntarily surrendered the un-punched tickets is incorrect as the hand blocks of tickets were forcibly taken from him by the Squad.
- 10.3. As per the DTC circular dated 28.05.1980, the chargesheet ought to have been accompanied by the list of witnesses, their statements, and the list of documents proposed to be relied upon. It was further submitted that the necessary witnesses to substantiate the charges were not examined, and that only one witness, namely Ms. Phoolwati Jain, was examined, whose version of the inspection did not support the Appellant's case.
- 10.4. The cross-examination of Mr. B. P. Nigam, the Disciplinary Authority, clearly demonstrated that no opportunity of hearing was afforded to the Respondent before confirmation of the punishment. It was also contended that the Respondent was never given any opportunity to explain his past record at any



stage. In view of the same, the principles of natural justice were not adhered to by the Appellant.

- 10.5. Before the learned Labour Court, a preliminary issue was framed as to whether the Appellant had conducted a fair and proper enquiry in accordance with the principles of natural justice. The learned Labour Court, *vide* the Labour Court Order, upon consideration of the pleadings and the documents placed on record by the Appellant, categorically held that the principles of natural justice had not been followed and that the findings of the Enquiry Officer were perverse. The learned Labour Court also found that the Driver Memo, Statements of Passengers and the Log Book had not been supplied to the Respondent. It was further observed that even the Log Book, though relied upon during the enquiry proceedings, was withheld from the Respondent on the ground of irrelevance, and that the Statements of Passengers had likewise not been furnished to him.
- 10.6. The Enquiry Officer did not properly explain to him that he was entitled to the assistance of a co-worker as a Defence Assistant. During the enquiry proceedings on 30.08.1993, the Respondent was made to sign merely as a token of having inspected the passengers' statements. The past record was taken into account while passing the final order, though the same had neither been disclosed to the Respondent nor enclosed with the chargesheet. No real opportunity of inspection had been extended to the Respondent, notwithstanding the statement of the Enquiry



Officer before the learned Labour Court that inspection had been allowed.

10.7. The Appellant was afforded full opportunity before the learned Labour Court to lead evidence in support of the charges, however failed to prove the same. The Respondent was not given any opportunity to explain the past record, which was relied upon by the Appellant while imposing punishment.

10.8. This Court in *Delhi Transport Corporation v. Shyam Singh*, Neutral Citation: 2012:DHC:2113-DB, has held that, in the absence of a cash check of the Conductor, the charges could not be said to have been proved. In that case, the learned Labour Court had directed reinstatement without back wages but with continuity of service and consequential benefits.

10.9. In view of the foregoing submissions, it was prayed that the Impugned Order be upheld and that the present Appeal be dismissed with costs in favour of the Respondent.

ANALYSIS AND FINDINGS

Labour Court Order and Award

11. The learned Labour Court decided Issue No. 1 against the Appellant, which pertained to whether the management had failed to conduct a fair and proper enquiry in accordance with the principles of natural justice.

12. The learned Labour Court recorded that, although the Appellant had otherwise followed the principles of natural justice, it had failed to supply certain material documents, namely the Driver Memo, the Log Book and the Statements of Passengers. The copy of the Log Book was declined on the ground that it was irrelevant. The learned Labour Court further held that the



non-supply of the Statements of Passengers, coupled with the Respondent being permitted only inspection thereof, did not satisfy the requirements of the principles of natural justice.

13. The learned Labour Court also noted that the chargesheet expressly stated that the past record of the Respondent would be taken into consideration at the time of passing the final order or making a recommendation. The learned Labour Court held that the failure of the DTC to enclose the said past record with the chargesheet constituted a lapse offending the principles of natural justice.

14. The learned Labour Court further held that, in the absence of satisfactory evidence to establish that the Respondent had been afforded an effective opportunity to inspect the relevant documents, in view of the non-supply of the Log Book which the Respondent had asserted to be relevant, the non-enclosure of the past record with the chargesheet, and the improper denial of the assistance of a Defence Assistant, Issue No. 1 stood vitiated.

15. Accordingly, the learned Labour Court decided Issue No. 1 in favour of the Respondent and against the DTC.

16. The learned Labour Court further passed the Award, after considering the submissions of the Parties and examining the evidence, concluding that the Respondent was entitled to relief and allowed the Statement of Claim.

17. The Award records two irregularities:

- i. When the Bus was checked by the Squad on 24.04.1992, the group of five passengers informed that they had paid the due fare and the Respondent did not issue the tickets. Acknowledging the irregularity, the Respondent had surrendered the un-punched tickets bearing Nos. 66667 to 66671 of ₹2/- each; and



ii. Five passengers were found in the Bus ticketless from Gurgaon to Bhondasi though the five passengers paid the fare to the Respondent. The Respondent handed over the un-punched tickets bearing Nos. 82297 to 82299 and Nos. 83312 to 83313.

18. The Award records that the cash in the possession of the Respondent was not checked by the Squad and, accordingly, holds that the DTC had failed to establish the charge of 'misconduct' through cogent evidence, thereby entitling the Respondent to reinstatement. The Award further notes that the entries in the past record were not disputed by the Respondent. It records that the Respondent had been issued a warning in the year 1986 for performing duties without uniform; in 1987, he was visited with stoppage of the next due increment for non-issuance of tickets after collecting fare; and in 1989, he was again issued a warning for refusing to hand over the un-punched tickets to the Squad.

19. Accordingly, the Award holds that the Respondent is not entitled to any back wages. The claim of the Respondent was allowed, and the DTC was directed to reinstate him with continuity of service for the purposes of seniority, pension, gratuity and all other consequential benefits. The Award further directed that such reinstatement be implemented within thirty days from the date of the publication of Award.

Impugned Order

20. The learned Single Judge recorded that the non-supply of the Log Book, coupled with the absence of proper material to establish that the Respondent had been permitted to inspect the documents relied upon during the enquiry proceedings, vitiated the enquiry. The learned Single Judge further observed that the fact that the Respondent was not permitted to be



represented by a Defence Assistant, together with the non-enclosure of the past record with the chargesheet, clearly established that the enquiry proceedings had been conducted in breach of the principles of natural justice.

21. The learned Single Judge held that the learned Labour Court had correctly concluded that the enquiry proceedings stood vitiated and were perverse, and that the Labour Court Order suffered from neither illegality nor any error apparent on the face of the record.

22. The learned Single Judge further recorded that the learned Labour Court had rightly found the statements of the passengers to be fraught with discrepancies, inasmuch as the statements of Mr. Zile Singh and Mr. Subhash did not disclose the exact point of commencement of travel, the destination, or the amount paid by the passengers as fare as only two names were forthcoming and no statement had been recorded from the group of five passengers, who were alleged to have travelled from Gurgaon to Badshahpur.

23. The learned Single Judge also noted that the statement of another passenger, namely Mr. Abhey Singh, who was stated to be travelling from Gurgaon to Badshahpur, lacked authenticity, since the number of ticketless passengers mentioned therein did not tally with the names of the passengers and the statement did not specify the point from which the journey commenced or the amount paid by each passenger to the Respondent. The learned Single Judge further noticed the observation in the Award that the Statements of Passengers were not consistent with the oral testimony, and that in such circumstances the Squad ought to have verified the cash in the Respondent's possession.



24. The learned Single Judge held that, since the DTC had failed to establish that any 'misconduct' had been committed by the Respondent, the Respondent was entitled to reinstatement. Insofar as back wages were concerned, it was held that the Respondent was not entitled thereto in view of his past record. Accordingly, the Award was found to suffer from neither illegality nor any error apparent on the face of the record.

25. Accordingly, the Impugned Order upheld the Labour Court Order and the Award and consequently dismissed the Writ Petition.

Conclusion

26. Before adverting to the conclusion, it is apposite to discuss the decision relied upon by learned Counsel for the Respondent in ***Shyam Singh (supra)***. In the said case, a Division Bench of this Court was concerned with a comparable factual matrix involving a DTC Conductor who stood charged with collecting fare from passengers without issuing tickets. While upholding the order of reinstatement passed by the learned Labour Court, the Division Bench specifically noted that the Squad had failed to verify the cash found in the possession of the Conductor at the time of the checking. The Court held that, in the absence of such cash verification, the charge of misappropriation of fare could not be said to have been conclusively established on the evidence.

27. Consequently, reinstatement of the Conductor was directed, *albeit* without back wages, but with continuity of service and all consequential benefits. The Division Bench of this Court in ***Shyam Singh (supra)*** relied upon the legal position settled by the Supreme Court in ***Syndicate Bank v. The General Secretary, Syndicate Bank Staff Association***, (2000) 5 SCC 65, wherein it was held that the principles of natural justice require:



- i. The workman must be made aware of the nature of the complaint or accusation against him;
- ii. He must be given a genuine opportunity to state his case; and
- iii. The management must act in good faith, meaning its action must be fair, reasonable and just.

28. It was further observed that the requirements of natural justice are not confined to the mere giving of an opportunity of hearing, and that the mere fact that a hearing was provided does not, by itself, bar an Industrial Adjudicator from interfering with the disciplinary action of the management. If, despite giving an appropriate opportunity of hearing, the action of the management is found to be arbitrary and unreasonable, it would qualify as perverse and would be open to interference as also held by the Supreme Court in *Apparel Export Promotion Council v. A.K. Chopra*, AIR 1999 SC 625.

29. In the facts of the present case, the Squad intercepted the Bus on 24.04.1992 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.

30. Apart from the aforesaid evidentiary deficiencies, the enquiry proceedings themselves stood vitiated by multiple breaches of the principles of natural justice. First, the Log Book, which the Respondent had specifically sought as relevant to his defence, was denied to him on the ground that the Enquiry Officer considered it irrelevant. Second, the Statements of Passengers were not supplied to the Respondent; he was merely permitted to inspect the same, which cannot be regarded as an adequate substitute for the furnishing of copies. Third, although the record indicates that the Respondent was informed of the availability of a Defence Assistant, the evidence does not satisfactorily establish that such right was properly explained to him on each date of enquiry in the manner required by law. Fourth, and most significantly, the chargesheet itself stated that the past service record of the Respondent would be taken into consideration while passing the final order, yet the said past record was not enclosed therewith and no opportunity was afforded to the Respondent to explain or rebut the same. The reliance upon a person's past record for the purpose of imposing a more severe punishment, without granting such person an opportunity to address the same, constitutes a settled infraction of the principles of natural justice.



31. Upon a careful consideration of the submissions advanced on behalf of the Parties, we are of the considered view that the Impugned Order correctly appreciates both the factual matrix and the governing legal principles. The learned Single Judge, in our opinion, rightly upheld the findings of the learned Labour Court that the enquiry proceedings were vitiated and that the Appellant had failed to prove the charge of ‘misconduct’ before the learned Labour Court by cogent, reliable and consistent evidence.

32. The reliance placed by the Appellant on the authorities cited on its behalf is misplaced as those decisions having arisen in distinct factual settings where the charges stood duly established on credible material, which is absent in the present case. The past record of the Respondent, reflecting similar lapses, has already been duly taken into consideration by both the learned Labour Court and the learned Single Judge while declining the relief of back wages.

33. We are of the view that the learned Single Judge has correctly held that the Appellant was unable to establish the charge of ‘misconduct’ against the Respondent to the requisite standard, particularly in light of the failure to check the cash of the Respondent, the inconsistencies in the passenger statements, and the non-supply of relevant documents during the enquiry.

34. The principles laid down in *Shyam Singh* (*supra*), as grounded in *Syndicate Bank* (*supra*) and *Apparel Export Promotion Council* (*supra*) apply squarely to the facts of this case and support the order of reinstatement with continuity of service. The denial of back wages, on account of the Respondent’s unsatisfactory past record, is equally justified and warrants no interference. The Impugned Order does not suffer from any legal infirmity,



perversity, or error apparent on the face of the record that would warrant interference by this Court.

35. In view of the above analysis, we find no ground warranting interference with the conclusion in the Award as well as Impugned Order. Accordingly, there is no infirmity with the Impugned Order dated 14.05.2024, which is hereby upheld. Consequently, the present Appeal stands dismissed along with the pending Application. There shall be no order as to costs.

TEJAS KARIA, J

DEVENDRA KUMAR UPADHYAYA, CJ

MAY 23, 2026

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