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

Reserved on: 10.02.2026
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+ W.P.(C) 3183/2011

DELHI TRANSPORT CORPORATIONPetitioner

Through: Mr. Uday N. Tiwari, Adv.
versus

HARISH CHANDRARespondent
Through: Mr. M.P. Sinha, Mr. Satyam Mishra
and Ms. VhavyaRazshree, Advs.

CORAM:
HON'BLE MS. JUSTICE SHAIL JAIN

JUDGMENT

SHAIL JAIN, J.

1. The present writ petition has been filed by the petitioner, *Delhi Transport Corporation*, under Articles 226 and 227 of the Constitution of India, assailing the order dated 28.10.2009 (hereinafter referred to as the *Impugned Order*) and the Award dated 02.12.2010 (hereinafter referred to as the *Impugned Award*) passed by the learned Presiding Officer, Labour Court, Karkardooma Courts, Delhi, in DID No. 01/2008.

BRIEF FACTS:

2. The brief factual matrix, as borne out from the record, is that the respondent/workman, Harish Chandra (*hereinafter referred to as the Respondent*), was employed as a Conductor with the petitioner, Delhi



Transport Corporation (DTC), since the year 1985 and was posted at Shrinivaspuri Depot, bearing Badge No. 22659.

3. On 16.10.2003, while the Respondent was performing his duties as a Conductor in Bus No. 6467 on Route No. 518/9, the bus was checked by the checking staff of the petitioner Corporation at the Hazrat Nizamuddin Railway Station Bus Stand at about 13:05 hours. During the inspection of the waybill and ticket blocks, it was allegedly found that the Respondent was in possession of certain ticket blocks of denominations of ₹5 and ₹10, bearing specific serial numbers, which were alleged to be counterfeit/duplicate in nature.

4. As per the checking report prepared by the checking staff, it was alleged that the Respondent possessed:

- (i) a ticket block of denomination ₹5 bearing numbers 448-82164 to 82199, which were alleged to be counterfeit, whereas genuine tickets of the same block series 448-82161 to 82199 were also available; and
- (ii) ticket blocks of denomination ₹10 bearing numbers 483-11755 to 11799 and 483-11770 to 11799, which were stated to be bogus, whereas genuine tickets of the same series 11760 to 11799 were also found.

5. Pursuant to the said incident, the Respondent was taken to the headquarters, and FIR No. 104/2003 was registered at Police Station Hazrat Nizamuddin Railway Station on same day under Sections 420, 468 and 471 IPC. The Respondent remained in judicial custody from 16.10.2003 to 30.10.2003.



6. The respondent/workman was placed under suspension *vide* order dated 17.10.2003, pending initiation and conclusion of disciplinary proceedings arising out of the alleged incident.
7. Thereafter, a charge sheet dated 24.02.2005 was issued by the petitioner/management alleging misconduct under Rule 19(b), (f), (h) and (m) of the DTC (Conduct) Rules, primarily on the ground of possession of forged/bogus ticket blocks causing financial loss to the Corporation. The Respondent submitted his reply to the charge sheet denying the allegations. Not being satisfied with the explanation furnished, the management initiated departmental disciplinary proceedings against the Respondent.
8. The enquiry proceedings were conducted initially by Ms. Sunita Chauhan and subsequently by Sh. Sushil Jacob on various dates between 08.04.2005 and 29.03.2006. During the course of the enquiry, the management examined witnesses, including members of the checking staff. The Respondent participated in the enquiry proceedings and cross-examined the witnesses produced by the management. Upon completion of the enquiry proceedings, the Enquiry Officer submitted his report dated 25.04.2006, holding that the charges against the Respondent stood proved.
9. Based on the findings recorded in the enquiry report, the management issued a show cause notice dated 13.10.2006 proposing the penalty of removal from service. The Respondent submitted his reply to the said notice; however, the disciplinary authority was not satisfied with the explanation offered. Consequently, the management passed an order dated 12.12.2006, whereby the Respondent was removed from service.



10. Aggrieved thereby, the Respondent raised an industrial dispute, registered as DID No. 01/2008 before the Labour Court, Karkardooma Courts, Delhi.

11. During the course of the proceedings, the Labour Court first considered the issue relating to the validity of the domestic enquiry and, by order dated 28.10.2009, held that the enquiry conducted by the management was not fair and proper. The management was thereafter granted an opportunity to lead evidence before the Court to establish the alleged misconduct on merits.

12. Upon appreciation of the evidence produced by both the parties, the Labour Court, by the Impugned Award dated 02.12.2010, came to the conclusion that the management had failed to prove the charges levelled against the Respondent/workman and consequently directed his reinstatement in service, though without back wages.

13. Aggrieved by the order dated 28.10.2009 and the Impugned Award dated 02.12.2010, the petitioner/management has filed the present writ petition before this Court under Article 226 & 227 of the Constitution Of India. During the pendency of the present writ petition, the Respondent filed an application under Section 17-B of the Industrial Disputes Act, 1947 (*Hereinafter, referred as ID Act,1947*). By order dated 29.03.2012, this Court directed the petitioner/management to pay the Respondent either his last drawn wages or the minimum wages, whichever is higher, from the date of the Impugned Award till the disposal of the present petition.

14. **SUBMISSIONS ON BEHALF OF THE PETITIONER**



14.1 Learned counsel for the petitioner/management submitted that the Labour Court erred in holding that the domestic enquiry was not fair and proper. It was contended that the finding that the enquiry stood vitiated on account of the absence of a Labour Welfare Officer and a Presenting Officer is contrary to settled principles governing disciplinary proceedings. It was submitted that departmental instructions regarding the presence of a Labour Welfare Officer are directory in nature, and their non-compliance does not, by itself, vitiate the enquiry. Reliance was placed on ***Ramesh Chand v. Delhi Transport Corporation, 2007 SCC OnLine Del 858.***

14.2 It was further submitted that the record of the enquiry proceedings demonstrates that the respondent/workman was offered the assistance of a co-worker or Labour Welfare Officer, which he declined, and thereafter participated in the proceedings, including cross-examination of witnesses. It was contended that, in such circumstances, no prejudice was caused and the enquiry could not have been held to be vitiated.

14.3 Learned counsel also submitted that there is no mandatory requirement for appointment of a Presenting Officer in every departmental enquiry, and that the absence of a Presenting Officer does not vitiate the proceedings in the absence of demonstrated prejudice. Reliance was placed on ***Union of India v. Ram Lakhan Sharma (2018) 7 SCC 670 ; DTC v. Hanumant Singh, W.P.(C) 717/2011 ; DTC v. Kishori Lal, 2013 SCC OnLine Del 669, and DTC v. Rajpal & Anr, W.P.(C) 6218/2001.***

14.4 On merits, it was submitted that the Labour Court erred in holding that the misconduct was not proved despite granting the management an opportunity to lead evidence. It was contended that the Labour Court adopted an unduly technical approach in discarding the management's case



on the ground that the original documents were not produced, particularly when the witness had deposed that the same were in police custody. It was further submitted that strict rules of evidence are not applicable to proceedings before the Labour Court, and reliance could be placed on relevant material even in the absence of formal proof. In this regard, reliance was placed on *Bhavnagar Municipal Corporation & Ors v. Jadeja Govubha Chhanubha*, (2014) 16 SCC 130 and *Karnataka State Road Transport Corporation v. Lakshmidamma (Smt) & Anr*, (2001) 5 SCC 433.

14.5 Learned counsel also contended that the Labour Court erred in discarding the testimony of *MW-1* merely on the ground that he was the sole witness, as there is no rule that the testimony of a solitary witness cannot be relied upon if it is otherwise credible. Reliance was placed on *Banaras Electric Light & Power Co. Ltd. v. Labour Court II* (1974) 3 SCC 103. It was further submitted that the Labour Court failed to consider material aspects of the evidence, including the alleged admission of the respondent during the enquiry proceedings, and that the respondent did not lead any rebuttal evidence.

14.6 On the aforesaid grounds, it was contended that the Labour Court erred both in holding the domestic enquiry to be vitiated and in concluding that the misconduct was not proved.

15. SUBMISSIONS ON BEHALF OF THE RESPONDENT

15.1. Learned counsel for the respondent/workman submitted that the impugned order dated 28.10.2009 and the Award dated 02.12.2010 do not



suffer from any illegality or infirmity warranting interference under Articles 226 and 227 of the Constitution of India.

15.2 It was contended that the Labour Court rightly held the domestic enquiry to be vitiated, having regard to the non-compliance with the office memorandum dated 13.10.1965, which required the presence of a Labour Welfare Officer during enquiry proceedings, as well as the absence of a Presenting Officer. Reliance was placed on *DTC v. Maha Singh W.P.(C) 2228/2004* to contend that such requirements were mandatory.

15.3 On merits, it was submitted that, after granting opportunity to the management to lead evidence, the Labour Court correctly concluded that the misconduct was not proved. The management examined only one witness (*MW-1*), and failed to produce the original documents forming the basis of the charge or to examine other members of the checking staff. It was further submitted that the material on record indicated the presence of another conductor on duty, whose role was not explained, thereby creating doubt as to the allegations. In these circumstances, the Labour Court rightly held that the sole uncorroborated testimony of *MW-1* was insufficient to establish the charge.

15.4 Learned counsel further submitted that the respondent/workman was acquitted in the criminal proceedings arising out of the same incident. It was also submitted that, during the pendency of the writ petition, the respondent was paid wages under Section 17-B of the Industrial Disputes Act, 1947, in terms of the order dated 29.03.2012, which continued till he attained the age of superannuation. It was contended that the respondent is entitled to the benefits flowing from the Award, subject to adjustment of the amounts received under Section 17-B, ID Act, 1947.



16. Issues for Consideration

In light of the rival submissions advanced on behalf of the parties and the material placed on record, the following issues arise for consideration before this Court:

- I. Whether the Labour Court was justified in holding, *vide* order dated 28.10.2009, that the domestic enquiry conducted by the petitioner/management was not fair and proper and consequently stood vitiated?
- II. Whether the Labour Court was correct in concluding, in the impugned Award dated 02.12.2010, that the petitioner/management failed to prove the alleged misconduct against the respondent/workman after leading evidence before the Court?
- III. Whether the impugned order dated 28.10.2009 and the Award dated 02.12.2010 passed by the Labour Court warrant interference by this Court in exercise of its jurisdiction under Articles 226 and 227 of the Constitution of India?

ANALYSIS AND FINDINGS

17. Having heard learned counsel for the parties and perused the material placed on record, this Court proceeds to examine the present writ petition. At the outset, it is well settled that the jurisdiction of this Court under Articles 226 and 227 of the Constitution of India is supervisory in nature and not appellate. This Court does not sit in appeal over the findings returned by the Labour Court, nor does it undertake a re-appreciation of evidence or substitute its own conclusions on facts. It is equally well settled that interference with findings of fact recorded by the Labour Court is warranted



only where such findings are perverse, based on no evidence, or suffer from jurisdictional error, patent illegality, or a manifest misapplication of settled legal principles. So long as the findings recorded by the Labour Court are based on a reasonable appreciation of evidence and are not perverse, no interference is called for merely because another view may also be possible. The Hon'ble Supreme Court has consistently reiterated these principles. It is in the aforesaid limited scope of jurisdiction that the present issues are required to be examined.

18. At the outset, it may be noted that the present writ petition arises from two findings forming part of the same adjudicatory process. Issue No. 1, relating to the validity of the domestic enquiry, was decided by order dated 28.10.2009, whereas Issue No. 2, concerning the merits of the charges and legality of termination, was adjudicated in the impugned Award dated 02.12.2010. Thus, both findings, though rendered at different stages, form part of the overall Award and are subject to examination in the present writ petition.

19. Insofar as Issue No. 1 is concerned, the petitioner has assailed the Impugned Order dated 28.10.2009 passed by the Labour Court, whereby the domestic enquiry conducted by the petitioner/management was held to be unfair and improper, primarily on the ground that the enquiry proceedings were conducted without the presence of a Labour Welfare Officer and a Presenting Officer. The operative portion of the said order reads as under:

“4.The office memorandum dated 13.10.1965 issued by the AGM (Admn.) bearing No. Admi.-21(73)/64 makes it mandatory that in charge-sheet cases where dismissal from service is proposed, the presence of a Labour Officer or Labour Welfare Officer should be arranged during the



course of the oral enquiry to watch the interest of the employee.

5.Learned AR for the management submits that an offer was made to the workman which he declined. Mere offering by the management is not sufficient as per the circular. It is for the management to have made such arrangements mandatorily. It is in this context one should understand the need of appointing a Presenting Officer. Though the rules of DTC do not provide for appointing the Presenting Officer, the Hon'ble High Court in DTC v. Maha Singh, W.P. No. 2228/1994 (decided on 28.04.2005) noted that non-appointment is an irregularity.

6.In view of the above, I am of the considered opinion that the enquiry conducted by the management cannot be treated as fair, proper and valid Thus, I pass the following order :

ORDER

The enquiry issue is held in favour of the workman and against the management.”

20. A perusal of the impugned order shows that the Labour Court held the enquiry to be vitiated on procedural grounds. The Labour Court proceeded on the basis that the office memorandum dated 13.10.1965 imposed a mandatory requirement to ensure the presence of a Labour Welfare Officer, and further observed that the absence of a Presenting Officer affected the fairness of the enquiry. On this reasoning, it concluded that the enquiry was not fair, proper or valid, and accordingly decided the preliminary issue in favour of the workman.

21. As regards Issue No. 1 decided by the impugned order dated 28.10.2009 this Court, in exercise of its jurisdiction under Article 226 of the Constitution of India, confines its examination to the limited question as to whether the Labour Court was justified in holding the domestic enquiry to be vitiated on account of the aforesaid procedural grounds, namely, (i) non-



presence of a Labour Welfare Officer and (ii) non-appointment of a Presenting Officer. It is clarified that this Court is not examining the merits of the charges, the sufficiency of evidence, or any other aspect of the enquiry, and the consideration *herein* is restricted only to the aforesaid procedural grounds, while considering the validity of domestic enquiry.

22. The contention urged on behalf of the petitioner is that the finding of the Labour Court is contrary to settled law, inasmuch as departmental instructions are in the nature of guidelines and not mandatory, and that the absence of a Presenting Officer, in the absence of any demonstrated prejudice or denial of fair opportunity, does not vitiate the enquiry. This contention now falls for consideration.

23. Examining the aforesaid contention, this Court is of the view that the finding of the Labour Court that the domestic enquiry stood vitiated is legally unsustainable. The Labour Court proceeded on the premise that the presence of a Labour Welfare Officer and the appointment of a Presenting Officer were mandatory, and that their absence, by itself, rendered the enquiry defective. Such an approach is contrary to settled law, as it treats procedural requirements as determinative without examining whether any prejudice was caused to the workman. It is well settled that a domestic enquiry cannot be invalidated on mere procedural irregularities unless it is shown that such deviation has resulted in denial of a fair opportunity or has caused real prejudice to the delinquent employee; the governing test being whether the enquiry, viewed as a whole, was fair and in accordance with the principles of natural justice.

24. It is well settled that a domestic enquiry need not conform to the strict procedural framework of judicial proceedings; it is sufficient if the



principles of natural justice are observed, namely, that the workman is informed of the charges, afforded a reasonable opportunity to defend himself, permitted to participate in the proceedings including cross-examination of witnesses, and that the enquiry is conducted fairly by an impartial authority.

25. In this context, the approach of the Labour Court in treating the office memorandum dated 13.10.1965 as imposing a mandatory requirement cannot be sustained. The said memorandum, being an internal administrative instruction regulating disciplinary proceedings, does not have the force of a statutory rule. Its non-compliance, therefore, does not *ipso facto* vitiate the enquiry, unless it is shown that such deviation has resulted in denial of a fair opportunity or has caused real prejudice to the delinquent employee which fact has neither been claimed nor proved by the workman.

26. In support of the aforesaid position, reference may be made to ***Ramesh Chand v. Delhi Transport Corporation*, ILR (2008) I Delhi 21: 2007 SCC OnLine Del 858**, wherein this Court held that departmental circulars are in the nature of rules of prudence and not mandatory directions, and that their non-compliance does not, by itself, vitiate the enquiry. It was further observed that where the workman is afforded an opportunity to take assistance but declines the same and participates in the enquiry, including by cross-examining witnesses, no violation of the principles of natural justice can be made out. The Court observed as under:

*“6. We have considered all the submissions in the light of the records. So far as the first ground taken before us which pertains to violation of the mandates of the circular dated 12.12.1973 is concerned, a similar issue was raised before us in the LPA No. 2290/2006 titled as **Dharam Pal v. Delhi***



Transport Corporation. *In the said case also, the aforesaid contention was rejected. Such a contention was also a subject matter of consideration before this Court in writ petition being CWP No. 1420/2002 title as **DTC v. Shyam Singh &Anr.**, The said writ petition was disposed of by judgment and order dated 29th September, 2004 and the Court held as under:*

*"Reliance placed by the learned Tribunal on the circular dated 12th February, 1973 is also misplaced. The circular requires the Enquiry Officer to ask a delinquent, on each date of the proceedings, whether he needs the assistance of any other workman. **This circular merely incorporate a rule of prudence and not a mandatory direction**, non-compliance of which would invalidate an inquiry. In a case such as the present, the respondent-workman, a literate conductor refused to take the assistance of a co-worker in the very first hearing. This being the position, the Enquiry Officer cannot be expected to ask him in every hearing whether he requires the assistance of any other worker. "*

7. Therefore, we are not inclined to accept the aforesaid contention raised by the counsel appearing for the appellant. Even otherwise on perusal of the records, we find that the appellant was given the opportunity to engage a defence assistant and the said opportunity was refused by the appellant stating that he would himself cross-examine the witnesses. In fact, the records indicate that he had himself cross-examined the witnesses produced. Therefore, the aforesaid contention raised regarding denial of opportunity is misconceived and is rejected."

[Emphasis supplied]

27. Applying the aforesaid principles to the facts of the present case, it is evident that the Labour Court erred in treating procedural aspects as determinative without examining whether any prejudice was caused to the



workman. The record shows that the workman was informed of the charges and afforded a full and effective opportunity to participate in the enquiry, including cross-examining the management witnesses and presenting his defence. He was also given an opportunity to avail the assistance of a co-worker or Labour Welfare Officer, on each day of enquiry which he declined. In such circumstances, where the opportunity was available but not availed, no prejudice can be said to have been caused. The enquiry proceedings thus reflect substantial compliance with the principles of natural justice.

28. The Labour Court has further held the enquiry to be defective on account of the non-appointment of a Presenting Officer, which requires examination in light of the settled legal position. The mere non-appointment of a Presenting Officer does not, by itself, vitiate a departmental enquiry, particularly where no such requirement is prescribed by the applicable rules. The validity of the enquiry is to be tested on the touchstone of fairness and compliance with the principles of natural justice, and not on the basis of procedural formalities in isolation.

29. In *Union of India v. Ram Lakhani Sharma*, (2018) 7 SCC 670, the Hon'ble Supreme Court, while dealing with the issue of non-appointment of a Presenting Officer in departmental enquiries, held that there is no requirement of appointing a Presenting Officer in each and every case, whether the statutory rules provide for it or are silent. It was further observed that the principles of natural justice are to be applied having regard to the facts of each case, and are not to be construed in a rigid or straitjacket manner. The Court held as under :



“34. We fully endorse the principles as enumerated above, however, the principles have to be carefully applied in fact situation of a particular case. There is no requirement of appointment of Presenting Officer in each and every case, whether statutory rules enable the authorities to make an appointment or are silent. When the statutory rules are silent with regard to the applicability of any facet of principles of natural justice the applicability of principles of natural justice which are not specifically excluded in the statutory scheme are not prohibited. When there is no express exclusion of particular principle of natural justice, the said principle shall be applicable in a given case to advance the cause of justice.”

30. A similar position has been reiterated by this Court in ***Delhi Transport Corporation v. Hanumant Kumar, W.P.(C) 717/2011 decided on 17.01.2013***, wherein a challenge to a domestic enquiry, *inter alia*, on the ground of non-appointment of a Presenting Officer and absence of a Labour Welfare Officer, was considered. Upon examining the governing legal principles, this Court held that the mere absence of a Presenting Officer does not vitiate a departmental enquiry, and that the party alleging violation of the principles of natural justice must demonstrate the prejudice caused thereby. It was further observed that where the workman is afforded an effective opportunity to participate in the enquiry proceedings, including cross-examination of witnesses and presentation of his defence, no violation of natural justice can be made out merely on account of such absence. The Court observed as under:

“7. Learned counsel for the petitioner further submits that the reason that no welfare officer was asked to participate in the proceedings is not good because the respondent had himself refused, when offered to avail of any defence representative. He further submits that the admission made



by the respondent was clear, and there is no basis to conclude that there is no clear cut admission of guilt made and recorded in the evidence led by the respondent, or in his cross examination. He further submits that it is not necessary that a presenting officer should have been appointed for the conduct of the inquiry. The same is merely a rule of prudence and not a mandatory direction, non-compliance of which would invalidate an inquiry.

In this regard, reliance is placed on the judgment of this Court in *Mahavir Singh Vs. DTC*, 2007 (139) DLT 569. In this case, the workmen impugned the conduct of the departmental inquiry, inter alia, on the ground that no presenting officer had been appointed by the department, which vitiated the entire inquiry. Rejecting the submission, this Court observed that there is no rule that an inquiry cannot proceed without a Presenting Officer. The Court further observed:

*“The witness can depose before an inquiry officer of their own, without the help of a presenting officer. **There is no violation of principles of natural justice, if no presenting officer is appointed or present.** If a request of allowing presenting officer or defence assistance is declined by the inquiry officer without just cause, a grievance can be made. The party who alleges violation of principles of natural justice has to show how his/her case got prejudiced by alleged violation. Petitioner has failed to show how non appointment of presenting officer prejudiced his case.”*

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10. Similarly, the Karnataka High Court in *Bharat Electronics Ltd. vs. K. Kasi*, (1987) ILR NULL 366: (1987) ILLJ 203 Kant, took the view that **there is no legal compulsion that the Presenting Officer should be appointed. It was observed that the mere fact that the presenting officer was not appointed is no ground to set**



aside the Inquiry. Commenting upon the role of the Inquiry Officer, it observed that it is common ground that if the Inquiring Authority plays the role of a Prosecutor and cross-examines the defence witnesses or puts leading questions to the prosecution witnesses clearly exposing a biased state of mind, the inquiry would be opposed to principles of natural justice. However, it is also well settled that an Inquiring Authority is entitled to put questions to the witnesses for clarification wherever it becomes necessary and so long as the delinquent employee is permitted to cross examine the witnesses after the Inquiry Authority questions the witnesses, the inquiry proceedings cannot be impeached as unfair.”

[Emphasis supplied]

It was further observed that the mere absence of a Presenting Officer does not vitiate the enquiry, so long as the delinquent has a fair opportunity to deal with the material on record. It is, however, well settled that the enquiry may stand vitiated if the Enquiry Officer assumes the role of a prosecutor; no such circumstance is made out in the present case.

31. Applying the aforesaid principles to the facts of the present case, it is evident that the Labour Court erred in treating the non-appointment of a Presenting Officer as fatal to the enquiry without examining whether any prejudice had been caused to the workman. The record indicates that the workman was duly informed of the charges and was afforded a full and effective opportunity to participate in the enquiry proceedings, including cross-examination of the management witnesses and presentation of his defence. The enquiry proceedings thus reflect substantial compliance with the requirements of natural justice.

32. Significantly, the Labour Court has not recorded any finding that the alleged procedural lapses resulted in prejudice to the workman or deprived



him of a fair opportunity of defence. In the absence of such demonstrable prejudice, the enquiry cannot be held to be vitiated.

33. The Labour Court has placed reliance on *Delhi Transport Corporation v. Maha Singh, W.P.(C) No. 2228/2004* decided on 28.04.2005 (incorrectly noted in the impugned order as W.P.(C) No. 2228/94), to hold that non-appointment of a Presenting Officer constitutes an irregularity vitiating the enquiry. Such reliance is misplaced. The said decision does not lay down any absolute proposition that absence of a Presenting Officer, by itself, vitiates a departmental enquiry. On the contrary, the legal position stands clarified by this Court in *DTC v. Hanumant Kumar (supra)* wherein it was observed:

“13. In view of the aforementioned observations of the Supreme Court as also the consistent view taken by the Various High Courts thereafter, the observations made in the case of DTC vs. Maha Singh, W.P.(C) No. 2228/2004 (wrongly written as W.P.(C) 2228/94 in the impugned award) decided on 28.04.2005, appear to be per incurium. The position that emerges from the aforesaid discussion is that the mere absence of a presenting officer representing the management does not vitiate the departmental proceedings. The Inquiry Officer is appointed by the Disciplinary Authority only to hold a fact finding inquiry in compliance of principles of natural justice, and to make a report on the basis of the said inquiry. He is not the Disciplinary Authority or the Punishing Authority.”

34. The aforesaid clarification squarely applies to the present case, where the enquiry proceedings demonstrate fairness and no prejudice has been shown to have been caused to the workman.

35. This Court is, therefore, of the considered view that the Labour Court erred in treating the procedural deviations as determinative without



examining whether such deviations resulted in any real prejudice to the workman or violated the principles of natural justice.

36. Accordingly, the **order dated 28.10.2009 holding the enquiry to be vitiated cannot be sustained in law.**

37. Having set aside the above discussed finding, this Court now proceeds to examine Issue No. 2, namely, whether the conclusion recorded by the Labour Court in the impugned Award dated 02.12.2010, that the petitioner/management failed to establish the alleged misconduct against the respondent/workman, can be sustained in law.

38. It is not in dispute that, upon the Labour Court holding the domestic enquiry to be vitiated, an opportunity was granted to the management to adduce evidence to establish the charges on merits. The said course was in consonance with the settled principles governing industrial adjudication as applicable at that stage. However, the findings returned by the Labour Court upon appreciation of such evidence now fall for examination by this Court to determine whether they can be sustained in law, or whether they suffer from perversity, misapplication of settled legal principles, or a failure to consider material evidence on record.

39. In support of its case, the management examined *MW-1*, Shri Yashpal, Assistant Traffic Inspector, who deposed that, during checking, the respondent/workman was found in possession of ticket blocks of ₹5 and ₹10 denominations bearing identical or repeated serial numbers. He further stated that the said tickets were seized and the original documents were forwarded to the vigilance department, pursuant to which FIR No. 104/2003 was registered.



40. The workman, on the other hand, contended that the charge was not established, primarily on the ground that the original documents were not produced before the Labour Court and that the evidence led by the management was insufficient to prove the misconduct.

41. Upon appreciation of the material on record, the Labour Court rejected the case of the management, primarily on the following reasoning:

1. *“MW-1 who deposed that the conductor possessed duplicate/counterfeit/forged tickets of Rs.5/- and 10/- denomination did not produce the original of those tickets before this Court*

2. *The management takes umbrage under the fact that original documents are with the police who have investigated the matter. The same were not summoned and proved before this Court.*

3. *The original reports prepared by MW1 are not tendered nor the same have been corroborated by examining the other checking staff who had testified to report at [Ex. Ma](#). Mark-Ma is further signed by other ATIs who were not examined.*

4. *However, the reading of Mark-Ma shows there were two conductors in the said bus. The badge number of first conductor is 20629 which was found to be correct during the checking. The badge number of the claimant conductor is 22659. This conductor was taken by the checking staff to the HO. The role of the other conductor is not spoken to by the witness before this court though it is stated so in Mark Ma. This creates a doubting cloud over the misconduct alleged to pin point this workman.*

5. *The sole testimony of MW-1, bereft of documentary evidence, to prove the misconduct. insufficient”*

42. On the aforesaid reasoning, the Labour Court held that the misconduct alleged against the workman was not proved and consequently directed reinstatement without back wages. The operative portion reads as under:



“.....10. For the aforesaid reasons, though the workman has not led any rebuttal evidence, I am of the considered view that the misconduct alleged against the workman is not proved to the hilt before this Court, nor even to probabilise the misconduct. Consequently, I hold that the workman is entitled to reinstatement.

11.I have gone through the claim statement. The workman has pleaded that he remained unemployed for no fault of his and that he was unable to secure alternate employment. However, there is no positive assertion in the claim statement that he made efforts to find alternate employment. Furthermore, considering the peculiar facts of the case where the misconduct has been disbelieved for lack of evidence, I am of the considered view that the workman is not entitled to any back wages.

12.In the result, **I find that the workman is entitled to reinstatement without back wages.** The management is directed to reinstate the workman within 30 days after publication of the Award. The reference is answered accordingly. Let the requisite number of copies of this award be sent to appropriate government for publication. File be consigned to record room”

[Emphasis supplied]

43. The aforesaid reasoning reflects that the Labour Court proceeded to discard the case of the management primarily on account of non-production of original documents, absence of corroborative evidence, and reliance on a solitary witness.

44. This Court is unable to sustain the approach adopted by the Labour Court in setting aside the case of the management on account of non-production of original documents, as it is unsustainable in law. The record indicates that the management had furnished an explanation for non-production of the original documents. It is also material to note that the explanation furnished by the management that the original documents were



in police custody was neither disputed nor discredited in cross-examination. In the absence of any challenge to such explanation, the Labour Court could not have drawn an adverse inference against the management merely on account of non-production of the original documents.

45. It is a settled position of law that strict rules of evidence, as embodied under the Indian Evidence Act, 1872, are not applicable to proceedings before the Labour Court or Industrial Tribunal. Such proceedings are guided by the principles of natural justice, and the standard of proof is that of *preponderance of probabilities*. What is required is that there must be some material on record on the basis of which the Labour Court can reasonably arrive at a conclusion, and not that the charge must be proved in accordance with the technical rules of admissibility applicable to civil or criminal trials.

46. Applying the aforesaid principles to the facts of the present case, it is evident from the record that *MW-1* had clearly deposed that the original documents, including the ticket blocks, were in the custody of the police in connection with the criminal proceedings arising out of the same incident. In such circumstances, the inability of the management to produce the originals stood duly explained. The Labour Court was, therefore, required to assess the evidentiary value of the material available on record on its own merits, including the oral testimony and the documents produced, instead of rejecting the same on the ground that the originals were not produced or formally proved.

47. It is also necessary to note that the absence of original documents, by itself, does not render the entire evidence unreliable, particularly where the oral testimony remains consistent, unshaken, and is supported by



surrounding circumstances. The evidentiary value of such material cannot be disregarded solely on this ground.

48. In this regard, reference may be made to the judgment of the Hon'ble Supreme Court in *Bhavnagar Municipal Corporation &Ors. v. JadejaGovubhaChhanubha&Anr*, (2014) 16 SCC 130, wherein it was observed that strict rules of evidence are not applicable to proceedings before the Labour Court, and that even a xerox copy of a document, if admitted on record and not objected to, can be relied upon. The Hon'ble Supreme Court held that once such material is brought on record, its evidentiary value has to be appreciated on the touchstone of overall material available, and cannot be discarded merely on the ground that the original document was not produced. The relevant observations are as under:

*“The Labour Court has, in the case at hand, placed reliance upon a xerox copy of a certificate allegedly issued by an officer of the appellant Corporation stating that the respondent was in the employment of the appellant Corporation as a Conductor between 3-10-1987 and 31-3-1989. While it is true that the xerox copy may not be evidence by itself specially when the respondent had stated that the original was with him, but had chosen not to produce the same yet the fact remains that the document was allowed to be marked at the trial and signature of the officer issuing the certificate by another officer who was examined by the appellant. **Strict rules of evidence, it is fairly well-settled, are not applicable to the proceedings before the Labour Court.** That being so the admission of the xerox copy of the certificate, without any objection from the appellant Corporation, cannot be faulted at this belated stage.”*

[Emphasis supplied]



49. In *Karnataka State Road Transport Corporation v. Lakshmiddevamma (Smt) &Anr.*, (2001) 5 SCC 433, the Hon'ble Supreme Court reiterated that strict rules of evidence are not applicable to proceedings before the Labour Court/Tribunal and that such forums are required to act on the material brought on record in order to meet the ends of justice, subject to observance of principles of natural justice. The relevant observations are as under:

*“45. It is consistently held and accepted that strict rules of evidence are not applicable to the proceedings before the Labour Court/Tribunal but essentially the rules of natural justice are to be observed in such proceedings. Labour Courts/Tribunals have the power to call for any evidence at any stage of the proceedings if the facts and circumstances of the case demand the same to meet the ends of justice in a given situation. We reiterate that in order to avoid unnecessary delay and multiplicity of proceedings, the management has to seek leave of the court/tribunal in the written statement itself to lead additional evidence to support its action in the alternative and without prejudice to its rights and contentions. **But this should not be understood as placing fetters on the powers of the court/tribunal requiring or directing parties to lead additional evidence including production of documents at any stage of the proceedings before they are concluded if on facts and circumstances of the case it is deemed just and necessary in the interest of justice.**”*

The said principle applies to the present case, where the Labour Court failed to evaluate the material available on record on its own merits and rejected the management's case on the ground of non-production of original documents. Admittedly, neither the workman nor the Labour Court had asked for production of original documents at any stage of the proceedings.



If *MW-1* would have failed to produce the original documents by summoning any witness or otherwise, then an adverse inference could be drawn against the management, but in the absence of any such request of the workman or direction by the Labour Court, no adverse inference could be drawn against the management for non-production of any original documents.

50. In view of the aforesaid settled legal position, the approach adopted by the Labour Court in rejecting the evidence of the management on the ground of non-production of original documents reflects a misapplication of the principles governing appreciation of evidence in industrial adjudication. The said reasoning is legally untenable, as it proceeds on the erroneous assumption that production of original documents is indispensable even in industrial adjudication. The impugned finding, therefore, cannot be sustained.

51. This Court further finds that the Labour Court erred in holding that the misconduct was not proved on the ground that the case of the management rested on the sole testimony of *MW-1* and was not corroborated by other members of the checking staff. It is a settled position of law that there is no rule of evidence which mandates that the testimony of a solitary witness cannot be relied upon, provided the same is found to be credible. The evidentiary value of a solitary witness depends upon its intrinsic credibility, consistency, and absence of material contradictions, all of which stand satisfied in the present case.

52. The Hon'ble Supreme Court in *Banaras Electric Light & Power Co. Ltd. v. Labour Court II, (1974) 3 SCC 103*, has held that there is no rule of evidence which mandates that the testimony of a solitary witness cannot be



relied upon, so long as the same is found to be credible and acceptable. The said principle applies to the present case, where the Labour Court discarded the testimony of *MW-1* solely on the ground that it was not corroborated by other members of the checking team, despite the testimony remaining unshaken and no rebuttal evidence having been led by the workman.

53. In the present case, the testimony of *MW-1*, who was part of the checking team, clearly establishes that the respondent/workman was found in possession of ticket blocks bearing duplicate serial numbers. The testimony of *MW-1* establishes:

- (i) recovery of ticket blocks from the possession of the workman,
- (ii) existence of duplicate serial numbers, and
- (iii) seizure during checking.

Significantly, the cross-examination of *MW-1* does not disclose any material contradiction, nor was any suggestion put that the alleged recovery was fabricated or that the workman was falsely implicated. The testimony thus remains consistent and undisputed.

54. It is well settled that in industrial adjudication, the requirement is only of '*some evidence*' on the basis of which a reasonable conclusion can be drawn, and not proof to the standard required in criminal proceedings. In *Indian Overseas Bank v. I.O.B. Staff Canteen Worker's Union & Anr* (2000) 4 SCC 245 the Hon'ble Supreme Court has held that findings of fact cannot be interfered with so long as they are based on some material on record. Similarly, in *State of Haryana v. Rattan Singh*, (1977) 2 SCC 491, it has been held that strict rules of evidence do not apply in domestic and industrial proceedings and the sufficiency of evidence is not to be scrutinised as in a criminal trial, so long as the material has a reasonable nexus with the charge.



55. However, the present case is not one where the Labour Court has returned findings on appreciation of such material, but one where relevant evidence has been discarded on legally untenable grounds.

56. In the present case, the evidence of *MW-1*, coupled with the surrounding circumstances on record, clearly establishes a direct nexus with the charge. However, the Labour Court has failed to appreciate such material and has instead disregarded relevant evidence on legally untenable grounds. This is not a case where the Labour Court has taken a possible view on the basis of appreciation of evidence; rather, it is a case where relevant evidence has been discarded on legally untenable grounds, thereby rendering the findings perverse and amenable to interference under Article 226.

57. A perusal of the record further indicates that, in the course of the departmental enquiry, the management witnesses were examined in detail and subjected to cross-examination by the respondent/workman. The proceedings thus demonstrate that full opportunity was afforded to test the credibility of the witnesses, yet nothing material emerged to discredit their testimony, either in the enquiry or before the Labour Court.

58. It is significant to note that, as recorded by the Labour Court itself, the workman did not lead any rebuttal evidence. In such circumstances, the testimony of *MW-1* could not have been discarded merely on the ground that other members of the checking team were not examined.

59. The insistence on corroboration, in the absence of any material to discredit the testimony of the management witness, reflects a misapplication of the settled principles governing appreciation of evidence and cannot be sustained in law. Corroboration, it is well settled, is *not a rule of law but of prudence*.



60. The Labour Court has erred in raising a doubt on the ground that another conductor was present in the bus. The enquiry record clearly shows that two conductors were on duty, namely the respondent/workman bearing Badge No. 22659 and another conductor bearing Badge No. 20629, both identifiable by their respective badge numbers. The material on record further indicates that the other conductor was found to be in order and was allowed to continue with duty, whereas the respondent/workman was specifically found in possession of the irregular ticket blocks and was taken for further proceedings. The mere presence of another conductor does not dilute the case against the respondent, particularly when the testimony of MW-1 and other members of the checking staff consistently implicates him. The Labour Court, in extending the benefit of doubt on this basis, has proceeded on conjecture despite cogent material on record, especially when no such question was put to the *MW-1* and thus no opportunity was given to *MW-1* to explain these circumstances. Although these questions were put by the workman to all the witnesses of the management in the enquiry, and they have given the same cogent reply. Even the other conductor was asked the same questions by the workman, and he explained the facts. Such an approach is contrary to the settled principles governing appreciation of evidence in industrial adjudication, where the matter is to be assessed on the touchstone of preponderance of probabilities and not by applying a standard akin to criminal proceedings.

61. The Labour Court has thus discarded relevant evidence on untenable grounds and misapplied the settled principles governing appreciation of evidence in industrial adjudication, rendering its findings perverse.



62. In the backdrop of the above discussion, the evidentiary material on record warrants a conclusion on the issue of misconduct.

63. When the aforesaid circumstances are cumulatively considered on the touchstone of **preponderance of probabilities**, the material on record leaves no manner of doubt that the misconduct alleged against the respondent/workman stands established.

64. Once misconduct stands established on the material on record, the consequential impact on the relationship of trust between the employer and the employee necessarily falls for consideration. The nature of the misconduct, involving handling of ticketing revenue and financial integrity, strikes at the core of the fiduciary trust reposed in the workman. The **doctrine of loss of confidence**, therefore, assumes particular significance in cases where the employee is entrusted with duties involving handling of fares and financial transactions, as in the case of a bus conductor. This assumes greater importance where the employer is a public transport undertaking dealing with public funds and discharging a public function, thereby requiring a high degree of integrity and trustworthiness from its employees. Once such confidence stands shaken on account of proved misconduct involving financial irregularities, the employer cannot be compelled to continue the relationship of employment.

65. The Hon'ble Supreme Court in *Janatha Bazar (South Kanara Central Cooperative Wholesale Stores Ltd.) &Ors v. Secretary, SahakariNoukarara Sangha &Ors., (2000) 7 SCC 517*, has categorically held that in cases of proved misappropriation or breach of trust, there is no question of showing misplaced sympathy on the ground of long service or the quantum involved, and reinstatement would be wholly unjustified.



Similarly, in *Divisional Controller, KSRTC (NWKRTC) v. A.T. Mane*, (2005) 3 SCC 254, it has been held that where an employee is found guilty of misappropriating the employer's money, the employer is justified in losing confidence in such an employee and in imposing the punishment of dismissal.

66. In the present case, the misconduct pertains to possession and use of forged ticket blocks, directly impacting the financial integrity of the petitioner/management and constituting a clear breach of trust in the discharge of official duties. Such conduct undermines the employer's confidence in the respondent/workman. In these circumstances, the direction of reinstatement granted by the Labour Court cannot be sustained, as the relationship of trust essential to such employment stands irretrievably damaged.

67. The reliance placed by the respondent on his acquittal in the criminal proceedings arising out of the same incident is misplaced. It is well settled that criminal proceedings and disciplinary or industrial adjudication operate in distinct fields, having different objectives and standards of proof. In *State of Rajasthan v. B.K. Meena*, (1996) 6 SCC 417, the Hon'ble Supreme Court has held that the standard of proof, the mode of enquiry, and the rules governing the proceedings in the two cases are entirely distinct and different. . Further, in *Nelson Motis v. Union of India*, (1992) 4 SCC 711, it has been held that an order of acquittal does not conclude departmental proceedings. An acquittal in criminal proceeding, therefore, does not *ipso facto* absolve the workman of misconduct in industrial adjudication, particularly where such acquittal is based on insufficiency of evidence and not an honourable exoneration.



68. For the reasons aforesaid, this Court is of the considered view that the Labour Court has:

- (i) applied an incorrect standard of proof,
- (ii) discarded relevant evidence on legally untenable grounds, and
- (iii) failed to appreciate the material on record in accordance with settled principles governing industrial adjudication.

69. The contentions advanced on behalf of the respondent/workman, founded on non-production of original documents, absence of corroboration, and alleged insufficiency of evidence, do not merit acceptance.

70. The findings returned on Issue No. 2 are, therefore, perverse and unsustainable in law.

CONCLUSION:

71. For the reasons recorded hereinabove, this Court holds that the finding of the Labour Court holding the domestic enquiry to be vitiated cannot be sustained. The grounds relied upon by the Labour Court, including the alleged absence of a Labour Welfare Officer and Presenting Officer, do not vitiate the enquiry in the facts of the present case. The said finding is, accordingly, set aside.

72. Once the finding on the enquiry issue is set aside, and the material on record is independently examined, the findings returned by the Labour Court on **Issue No. 2 are also unsustainable in law**, as the Labour Court has failed to appreciate the material on record in accordance with settled principles governing industrial adjudication and has thereby returned findings which are vitiated by perversity and cannot be sustained in law.

73. **The impugned Award dated 02.12.2010 is set aside.**



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74. Having regard to the nature of duties entrusted to the respondent/workman and the misconduct established, reinstatement is not warranted.

75. Any amounts paid to the respondent/workman pursuant to orders passed under Section 17B of the Industrial Disputes Act, 1947 shall not be recovered and shall be treated as final. The respondent/workman shall not be entitled to any further monetary, service, retiral or consequential benefits flowing from the impugned Award.

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

**SHAIL JAIN
JUDGE**

APRIL 13, 2026
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