

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

Judgment Reserved on: July 28, 2015

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Judgment Delivered on: August 04, 2015

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LPA No.660/2014

RAJBIR SINGH

..... Appellant

Represented by: Mr.Abhinall Dhingra,
Advocate.

versus

DELHI TRANSPORT CORPORATION

..... Respondent

Represented by: Mr.Avnish Ahlawat, Advocate
with Ms.Latika Chaudhary,
Advocate.

CORAM:

HON'BLE MR. JUSTICE PRADEEP NANDRAJOG

HON'BLE MS. JUSTICE MUKTA GUPTA

MUKTA GUPTA, J.

1. Aggrieved by the order dated October 11, 2013 allowing writ petition filed by the Respondent Delhi Transport Corporation (DTC) setting aside the award dated April 05, 2011 passed by the learned Labour Court directing reinstatement of the Appellant with continuity of the service on the same post without back wages and a compensation of ₹30,000/-, Rajbir Singh prefers the present appeal.

2. A brief exposition of facts is that while Rajbir Singh was working as a Conductor with DTC on August 26, 1992 the Checking Squad found two passengers without ticket. The Squad was informed that the Conductor had charged ₹2/- towards the fare from Bhogal to Ashram but had not issued tickets. On being confronted Rajbir Singh gave two unpunched tickets bearing Nos.90289 and 90290 of ₹4/- each. Statements of passengers of the bus were duly recorded. Since the bus was green line bus the fare from

Bhogal to Ashram was ₹4/- per passenger. A domestic inquiry was held wherein Rajbir Singh did not co-operate and left the proceedings and thus the same was conducted in his absence. The charges were held to be proved and the Disciplinary Authority directed removal of Rajbir Singh from services on October 27, 1994.

3. The claim of Rajbir Singh before the learned Labour Court was that he was beaten by the Checking Squad and he filed a complaint in this regard but to no effect. He was neither supplied the list of witnesses nor the documents and was proceeded ex-parte and no opportunity to defend was granted to him. It was further urged that the passengers were not examined during the inquiry and the punishment was disproportionate. The learned Labour Court after examining the parties passed the award dated April 05, 2010.

4. Though Rajbir Singh admitted the checking but his defence was that two passengers did not give any money and when he demanded the fare they de-boarded the bus without taking the tickets at the next stop. Since the bus had already crossed the over bridge, the passengers did not listen to the Conductor. However, in his cross-examination he admitted that the Checking Staff and two ticketless passengers were found in the bus. The Labour Court held that the Management could not prove the charge of manhandling of Traffic Inspector Sukh Lal by Rajbir Singh. Further in view of the fact that the passengers were not examined and the evidence of the Checking Staff was hearsay, the Labour Court held that the termination was unjustified and thus directed reinstatement with continuity of service on the same post without back wages and a sum of ₹30,000/- as compensation.

5. It is trite law that strict rules of evidence do not apply to domestic

inquiries and the Inquiry Officer is free to devise its own procedure inconsonance with the principles of natural justice.

6. A perusal of the award would reveal that though statements of passengers were placed on record however, they were not examined. The Management has proved that the passengers were cited as witnesses and summons were issued however, they failed to appear. The statements of passengers were placed on record and their non-appearance in the witness box cannot lead to an inference that there was violation of principles of natural justice. Even hearsay evidence can be looked into in inquiry proceedings. Further it is not disputed that Rajbir Singh refused to sign the statement and that after two unpunched tickets of value of ₹4/- each were collected the cash was OK.

7. The Supreme Court in the decision reported as (1977) 2 SCC 491 State of Haryana vs. Rattan Singh held that recording of statement of passengers by Inspectors was to be adhered as a matter of prudence and there is no rule that binds the checking staff to take the statement of the passengers. In the present case as noted above statements were recorded, however the passengers did not turn up and for their non-appearance it cannot be held that the management failed to prove the charges. In Para 4 it was held:

“4. It is well settled that in a domestic enquiry the strict and sophisticated rules of evidence under the Indian Evidence Act may not apply. All materials which are logically probative for a prudent mind are permissible. There is no allergy to hearsay evidence provided it has reasonable nexus and credibility. It is true that departmental authorities and Administrative Tribunals must be careful in evaluating such material and should not glibly swallow what is strictly speaking not relevant under the

Indian Evidence Act. For this proposition it is not necessary to cite decisions nor text books, although we have been taken through case-law and other authorities by counsel on both sides. The essence of a judicial approach is objectivity, exclusion of extraneous materials or considerations and observance of rules of natural justice. Of course, fairplay is the basis and if perversity or arbitrariness, bias or surrender of independence of judgment vitiate the conclusions reached, such finding, even though of a domestic tribunal, cannot be held good. However, the courts below misdirected themselves, perhaps, in insisting that passengers who had come in and gone out should be chased and brought before the tribunal before a valid finding could be recorded. The 'residuum' rule to which counsel for the respondent referred, based upon certain passages from American Jurisprudence does not go to that extent nor does the passage from Halsbury insist on such rigid requirement. The simple point is, was there some evidence or was there no evidence — not in the sense of the technical rules governing regular court proceedings but in a fair commonsense way as men of understanding and worldly wisdom will accept. Viewed in this way, sufficiency of evidence in proof of the finding by a domestic tribunal is beyond scrutiny. Absence of any evidence in support of a finding is certainly available for the court to look into because it amounts to an error of law apparent on the record. We find, in this case, that the evidence of Chamanlal, Inspector of the Flying Squad, is some evidence which has relevance to the charge levelled against the respondent. Therefore, we are unable to hold that the order is invalid on that ground."

8. Learned counsel though contends that the statements so recorded do not bear the signatures of Ram Kishan the only witness examined on behalf of the management, however Ram Kishan has clearly stated that statements were recorded by one Ramesh Chand. Merely by stating that Ramesh Chand has not been produced in the witness box the evidence of Ram Kishan does not get effaced with. The learned Labour Court though came to

the conclusion that there was every possibility that Rajbir Singh had collected ₹1/- each from the two passengers, however since statement of passengers has not been proved by the management benefit of doubt was granted. Having come to the conclusion that from the evidence there was every possibility of the appellant having collected ₹1/- each from the two passengers and no tickets having been issued to the passengers, the further finding of the learned Labour Court is erroneous and has thus been rightly set aside by the learned Single Judge.

9. Considering the evidence on record and law on the issue we find no infirmity in the impugned order passed by the learned Single Judge.

10. Consequently, the appeal is dismissed.

(MUKTA GUPTA)
JUDGE

(PRADEEP NANDRAJOG)
JUDGE

AUGUST 04, 2015
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