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

% Reserved on : 13.08.2026
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 # CNR No. DLHC011462942018

+ W.P. (C) 11450/2018

M/S DELHI TRANSCO LTD. .....Petitioner
Through: Mr. Abhishek Gautam, Advocate

versus

NIRMAL KUMAR .....Respondent
Through: Ms. Sunita Rani, Advocate

CORAM:
HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

JUDGMENT

1. By way of the present petition filed under Article 226 read with Article 227 of the Constitution of India, the petitioner/management has assailed the order dated 28.02.2018 passed by the learned Presiding Officer, Labour Court, South-West District, *Dwarka* Courts, *New Delhi*, in LIR No. 6044/16 (Old ID No. 07/2013).

Vide the impugned order, the Labour Court decided the preliminary issue in favour of the respondent/workman, holding that the domestic enquiry conducted against him was not fair and proper as per the principles of natural justice.

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2. The dispute was referred to the Labour Court in terms of the following reference:

> "*Whether the removal from services of Sh. Nirmal Kumar S/o Sh. Mohan Kumar is legal and or /justified , if yes, to what relief he is entitled and what directions are necessary in this respect?*"

3. The workman claimed before the Labour Court that he was appointed with the management as an 'Asstt. Line Mate' on daily wages on compassionate grounds on 26.02.2002, and was regularised on 06.06.2003.

4. A perusal of the record shows that after his appointment, the workman submitted an attestation form to the management. Column no. 12 of the said form required the applicant to disclose whether any case was pending against him in any Court of law at the time of filling up the form, to which he answered "NO". However, subsequent police verification revealed that 4 criminal cases had been registered against him. The management thereafter served upon him a charge memorandum dated 13.05.2004, alleging that he had furnished false information in his attestation form and concealed his involvement in criminal cases. He was subsequently removed from service *vide* order dated 16.06.2005.

5. The workman claimed before the Labour Court that he had been falsely implicated in the said cases on account of family rivalry, and had since been exonerated in all of them. He further claimed that since he was illiterate, he had got the form filled by some other person, who

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did not ask him about any criminal case, and he had only signed it. He also alleged that he was not given an opportunity to produce the person who had filled up his form, and that the penalty of removal was too harsh. He prayed for reinstatement with full back wages and continuity of service.

6. The management, *inter alia*, raised a preliminary objection that it was not an "industry" under Section 2(j) of the Industrial Disputes Act, 1947 (hereinafter the "ID Act"). On merits, it was submitted that the workman had admittedly furnished false information in his attestation form and concealed his involvement in criminal cases. A departmental enquiry was conducted against him under Rule 14 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965, in which full opportunity of hearing was afforded to him. The Inquiry Officer held the charge proved *vide* report dated 21.03.2005, and the disciplinary authority imposed the penalty of removal from service. His appeal and revision were rejected, and his mercy petition, filed more than 5 years thereafter, was also rejected *vide* order dated 25.01.2012. It was further submitted that the workman had stated in his attestation form that he had attended school till the 10th standard, and had signed it in English, which belied his plea of illiteracy. It was also submitted that his acquittal or exoneration in the criminal cases did not absolve him of the charge of furnishing false information and concealment.

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7. The Labour Court initially framed only two issues on 08.12.2014, as to whether the management was covered under the definition of "industry" under the ID Act, and the second issue pertained to the terms of the reference. However, on 15.03.2016, both parties pointed out that a domestic enquiry had been conducted against the workman but no issue to that effect had been framed. Accordingly, the Labour Court framed an additional issue and recast the issues as follows:

> "*1. Whether the enquiry conducted by the management is not fair and proper as per principles of natural justice?OPW.*
> *2. Whether the management is covered under the definition of "Industry" under the Industrial Disputes Act? OPW*
> *3. As per terms of reference.*"

Vide the same order dated 15.03.2016, the Labour Court also directed that issue no. 1 be treated as a preliminary issue and decided first.

8. By way of the impugned order, the Labour Court decided issue no. 1 in favour of the workman. It noted that the workman, who had studied up to the 9th standard, simply admitted his guilt before the Inquiry Officer, and that after the prosecution brief was filed, the matter was closed without giving him any further opportunity to submit his defence. Relying upon a decision rendered by a learned Single Judge of the High Court of Karnataka in *ACC Babcock Ltd. Vs. Bhimsa*[1], the Labour Court held that an admission accompanied by

[1] (1987) 71 FJR 384

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reasons is not an admission of guilt, and that an enquiry must still be held to allow the workman to show extenuating circumstances. It further held that the workman was not cautioned about the consequences of his admission, and that his defence assistant made no effort in his interest. Placing reliance on *Roop Singh Negi Vs. Punjab National Bank*[2], the Labour Court concluded that the charge could not be held proved on the sheer admission of guilt without a regular enquiry, and therefore held the enquiry to be not fair and proper.

9. Aggrieved by the said order, the management has preferred the present writ petition.

10. Learned counsel for the petitioner/management contends that the workman admitted the charge twice before the Inquiry Officer, first on 27.10.2004 and again on 03.12.2004, the second time in the presence of his defence assistant. He submits that the workman himself stated that he had furnished wrong information in column no. 12 of the attestation form out of fear that he would lose the job, which demonstrates intentional concealment on his part. Learned counsel places reliance upon the decision of the Supreme Court in *Central Bank of India Vs. Karunamoy Banerjee*[3] to contend that once a workman admits his guilt, requiring the management to lead evidence is an empty formality. It is further contended that the plea of illiteracy is belied by the conduct of the workman. Learned counsel also

[2] (2009) 2 SCC 570
[3] 1967 SCC OnLine SC 65

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contends that the concealment of his criminal antecedents in the attestation form constitutes a separate misconduct in itself, on which his acquittal in the said criminal cases has no bearing. Reliance in this regard is placed upon *Kendriya Vidyalaya Sangathan Vs. Ram Ratan Yadav*[4], *Devendra Kumar Vs. State of Uttaranchal*[5], and *Avtar Singh Vs. Union of India*[6]. Reliance is also placed upon *State Bank of Travancore Vs. Prem Singh*[7] to contend that an employee terminated for loss of confidence cannot be reinstated even if the enquiry is held to be bad.

11. *Per contra*, learned counsel for the respondent/workman supports the impugned order and submits that the petition is not maintainable as it assails a finding on a preliminary issue, which can be challenged only after the final award, and relies upon *Cooper Engineering Ltd. Vs. P.P. Mundhe*[8] and *D.P. Maheshwari Vs. Delhi Administration & Ors.*[9]. On merits, it is submitted that the enquiry was conducted in English, which the workman could not understand; no evidence was led to prove the charge; and he was not given an opportunity to lead evidence, particularly to examine the person who had filled up his attestation form.

[4] AIR 2003 SC 1709
[5] (2013) 9 SCC 363
[6] (2016) 8 SCC 471
[7] 2019 SCC OnLine Del 8258
[8] (1975) 2 SCC 661
[9] (1983) 4 SCC 293

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12. I have heard the learned counsels for the parties and carefully perused the record.

13. Before proceeding further, it is apposite to take note of the limited scope of writ jurisdiction in exercise of powers conferred under Articles 226/227 of the Constitution of India. It is well settled that the challenge is not in the nature of an appeal, but to see if the order has been passed without jurisdiction, is perverse, or does not follow the principles of natural justice (Ref: *Syed Yakoob Vs. K.S. Radhakrishnan*[10]). The said principle was reiterated by the Supreme Court in *International Airport Authority of India Vs. International Air Cargo Workers Union*[11]. A Coordinate Bench of this Court has also considered the scope of writ jurisdiction in *Ritz Theatre Private Limited Vs. Ramesh Chandra*[12].

14. At the outset, it would be apposite to deal with the objection of the workman that the present petition is premature. In *Cooper Engineering* (*supra*) and *D.P. Maheshwari* (*supra*), the Supreme Court cautioned against challenges to findings on preliminary issues, so that the adjudication of industrial disputes is not unduly delayed. However, the said decisions do not lay down an absolute bar on the exercise of jurisdiction under Article 226 of the Constitution of India against an order passed on a preliminary issue.

[10] 1963 SCC OnLine SC 24
[11] (2009) 13 SCC 374
[12] 2024 SCC OnLine Del 3633

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In the present case, the preliminary issue regarding the fairness of the domestic enquiry was not raised by the management to defer the adjudication of the dispute on merits, but was framed by the learned Presiding Officer of the Labour Court after both parties pointed out that no issue regarding the same had been framed by his learned predecessor. Moreover, no question of fact arises for consideration in the present petition, as the admission made by the workman before the Inquiry Officer is a matter of record. The controversy before this Court is confined to the legal effect of the said admission.

It may also be worth mentioning that the present writ petition has remained pending since 2018, and the operation of the impugned order has remained stayed since 23.10.2018. Relegating the management to challenge the impugned findings only after the final award is passed, at this stage, would only further prolong the adjudication of the industrial dispute, which is precisely what the said decisions sought to avoid. Therefore, the concerned objection of the workman is rejected.

15. Coming to the merits of the matter, the Labour Court held the enquiry to be unfair mainly because no evidence was led after the workman admitted the charge. The controversy, therefore, turns on whether the admission made by the workman was sufficient to hold the charge proved. Simply put, if it was, the enquiry cannot be faulted merely because no evidence was led. However, if it was not, the enquiry would be vitiated.

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16. A perusal of the record reveals that the workman initially denied the charge, whereafter the concerned departmental enquiry was conducted. On 27.10.2004, the workman appeared before the Inquiry Officer without a defence assistant, and pleaded guilty. His statement was recorded on the same date, the relevant portion of which is reproduced below:

> "*Q2. Whether he admit the charges leveled against him?*
> *Ans: Yes.*
> …
> *Q6. Who has filled your Appointment Application form?*
> *Ans: I have got it fill/written by some other person since I am not literate enough to read and write.*
> …
> *Q8. Why did you furnished wrong information in the column No. 12 in the attestation from?*
> *Ans: Out of fear that I lose the Job.*"

17. The enquiry was thereafter adjourned on 10.11.2004 and again on 19.11.2004, at the request of the workman, to enable him to engage a defence assistant. On 03.12.2004, the workman appeared along with his defence assistant, *Sh. Vidya Sagar*. The order sheet of that date, which bears the signature of the workman, records as under:

> "*The following are present :-*
>
> ***1. CO***
>
> ***2. PO***
>
> ***3. DA***
>
> *The preliminary proceeding in the case came up for hearing today. The PO Sh S.K.Dey and Sh Vidya Sagar DA of Sh Nirmal Kumar, CO are present. Sh Vidya Sagar is allowed to act as DA of Sh Nirmal Kumar, CO. The listed/relied upon documents*

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as per Annexure-III of the charge sheet have been taken on record and marked as Exht S-1, S-2, S-3, S-4, S-4A, S-5, S-5A.

The charged official has admitted the charges leveled against him. The D.A of C.O is advised to submit his written Defence brief statement of the case in next date of hearing, which fixed for 10.12.2004 at 3:00 PM."

Thus, the admission of the workman was recorded on 03.12.2004 in the presence of his defence assistant. On 10.12.2004, the defence assistant submitted a written statement regarding the status of the criminal cases against the workman. Thereafter, the Inquiry Officer, *vide* report dated 21.03.2005, held the charge to be proved, noting that no regular hearing was needed since the workman had admitted the charges. In his representation dated 16.04.2005 against the said report, the workman himself stated as under:

"*That the departmental Inquiry was initiated against me where I admitted the charges and submitted before the worthy Inquiry officer, the position of all the cases, which is as under …*"

18. The impugned order is primarily based on the premise that an admission accompanied by reasons is not an admission of guilt, and that the charge could not be held proved without a regular enquiry.

19. To counter the same, the management has relied upon the decision of the Supreme Court in *Karunamoy Banerjee* (*supra*). In the said case, the workman had admitted his guilt at all stages. However, the Labour Court held that the principles of natural justice had been violated, *inter alia*, because the workman had been examined in the first instance during the domestic enquiry. Rejecting this view, the

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Supreme Court held that once a workman admits his guilt, requiring the management to lead evidence would be an empty formality:

> "*18. ... When once the workman himself has, in answer to the charge levelled against him, admitted his guilt, in our opinion, there will be nothing more for the management to enquire into. That was the position in the case before us. Therefore, we are not inclined to agree with the reasoning of the Labour Court that when there has been an admission of guilt by the respondent himself, it can still be stated that there is a violation of the principles of natural justice merely because of the fact that the workman was examined, in the first instance. ...*
>
> *19. We must, however, emphasize that the rules of natural justice, as laid down by this Court, will have to be observed, in the conduct of a domestic enquiry against a workman. If the allegations are denied by the workman, it is needless to state that the burden of proving the truth of those allegations will be on the management; and the witnesses called by the management, must be allowed to be cross-examined by the workman, and the latter must also be given an opportunity to examine himself and adduce any other evidence that he might choose in support of his plea. But, if the workman admits his guilt to insist upon the management to let in evidence about the allegations, will, in our opinion, only be an empty formality. In such a case, it will be open to the management to examine the workman himself, even in the first instance, so as to enable him to offer any explanation for his conduct or to place before the management any circumstances which will go to mitigate the gravity of the offence. ...*"
>
> (emphasis supplied)

20. In *Channabasappa Basappa Happali Vs. State of Mysore*[13], a police constable, when asked by the enquiring officer whether he accepted the charges framed against him, answered "Yes", and thereafter offered an explanation for his conduct. It was argued before the Supreme Court that he had admitted only the facts, and not his

[13] (1971) 1 SCC 1

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guilt. Rejecting the said argument, the Supreme Court held that an admission of the facts is an admission of guilt, even if it is accompanied by qualifications:

> "*5. … The police constable here was not on his trial for a criminal offence. It was a departmental enquiry, on facts of which due notice was given to him. He admitted the facts. In fact his counsel argued before us that he admitted the facts but not his guilt. We do not see any distinction between admission of facts and admission of guilt. When he admitted the facts, he was guilty. The facts speak for themselves. …*
>
> *6. … Even if we were to take the admission as a whole with all its qualifications, we are quite clear that he admitted the facts necessary to establish the charge against him.*"

21. Similarly, in *Chairman-cum-Managing Director, Coal India Limited & Anr. Vs. Mukul Kumar Choudhuri & Ors.*[14], the delinquent had admitted the charges before the inquiry officer, but had also stated the reasons for his absence. The Supreme Court held that the charges stood fully proved, and considered his reasons only while examining the quantum of punishment:

> "*10. The delinquent admitted the charges before the inquiry officer. He stated:*
>
> *"I admit the charges. However, I desire to state reasons for my absence and are given below:*
>
> *(i) I did not have any intention nor desire of disobeying order of higher authority or violate any of the Company's rule and regulations, and*
>
> *(ii) The reason is purely personal which cannot be produced by any evidence to prove and is beyond my control."*
>
> *The admission on the part of delinquent before the inquiry officer leaves no manner of doubt that the charges against the delinquent stood fully proved. …*"

[14] (2009) 15 SCC 620

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(emphasis supplied)

22. Further, in *Manoj H. Mishra Vs. Union of India & Ors.*[15], the delinquent had denied the charges at the preliminary hearing, but later admitted them before the inquiry officer. When the inquiry officer declined to accept his admission as it was conditional, he made an unequivocal admission, and the enquiry was closed without any evidence being led. The Supreme Court held that he could not be permitted to resile from his admission:

> "*35. ... In view of the admissions made by the appellant, no evidence was adduced before the enquiry officer by either of the parties. Once the enquiry officer had declined to accept the conditional admissions made by the appellant, it was open to him to deny the charges. But he chose to make an unequivocal admission, instead of reiterating his earlier denial as recorded in preliminary hearing held on 26-12-1994. The appellant cannot now be permitted to resile from the admission made before the enquiry officer. ...*"

23. In the present case, when the Inquiry Officer specifically asked the workman whether he admitted the charges levelled against him, he answered "Yes". When asked why he had furnished wrong information in column no. 12 of the attestation form, he stated that he did so out of fear that he would lose the job. His admission was again recorded on 03.12.2004, this time in the presence of his defence assistant, and he acknowledged the same in his own representation dated 16.04.2005 against the enquiry report. The workman, thus,

[15] (2013) 6 SCC 313

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admitted the charge in clear and unequivocal terms, not once but repeatedly.

24. The decisions relied upon by the Labour Court are distinguishable. In the Karnataka High Court's decision in *ACC Babcock* (*supra*), the enquiry consisted only of the charge-sheet and the explanation given by the workman in reply to it, which was treated as an admission, and the workman was not even examined. In *Roop Singh Negi* (*supra*), the only evidence relied upon by the inquiry officer was a confession purportedly made by the delinquent before the police, which, according to him, he was forced to sign as he was tortured in the police station. In the present case, the workman was examined by the Inquiry Officer himself, and he admitted the charge in answer to a specific question, and repeated it in the presence of his defence assistant.

25. The Labour Court also held that the workman was not cautioned about the consequences of his admission. However, though the workman had no defence assistant when he first admitted the charge on 27.10.2004, he repeated his admission on 03.12.2004 in the presence of his defence assistant. The Labour Court further held that the defence assistant made no effort in the interest of the workman, and that the workman was not given an opportunity to submit his defence. However, on 03.12.2004 itself, the defence assistant was asked to submit a written defence brief, and he submitted a written statement on 10.12.2004. As regards the submission that he was not

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given an opportunity to examine the person who had filled up his attestation form, the order sheets of the enquiry do not record any request by the workman to examine any witness. Moreover, in his cross-examination before the Labour Court, the workman himself stated, "*I do not know the person under whose instructions, I have signed the attestation form.*"

26. In view of the above, this Court is of the considered opinion that the Labour Court erred in holding that the enquiry was not fair and proper. Accordingly, the present writ petition is allowed and the impugned order is set aside.

27. The enquiry conducted by the management is held to be fair and proper, and issue no. 1 is decided against the workman. The matter is remanded to the Labour Court to decide the remaining issues in accordance with law.

28. The management has also contended that the plea of illiteracy is belied by the conduct of the workman, and that the concealment of facts in the attestation form is a separate misconduct in itself, relying upon *Ram Ratan Yadav* (*supra*), *Devendra Kumar* (*supra*), and *Avtar Singh* (*supra*). It has further contended, relying upon *Prem Singh* (*supra*), that an employee terminated for loss of confidence cannot be reinstated even if the enquiry is held to be bad. These contentions go to the merits of the dispute and the relief, which are yet to be decided by the Labour Court. Therefore, this Court is refraining from examining them at this stage.

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29. Needless to state that nothing observed hereinabove shall amount to an expression on the merits of the case and shall not have a bearing on the adjudication of the remaining issues by the Labour Court.

30. The parties are directed to appear before the Labour Court on 01.12.2026.

31. A copy of this judgment be communicated to the Labour Court concerned.

(MANOJ KUMAR OHRI)
JUDGE

NOVEMBER 13, 2026
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