(2026) 08 DEL CK 4234

In the Delhi High Court

Case No : LPA 514/2026

Uma Shankar Sharma APPELLANT

Vs

State (Govt) Of NCT Delhi & Anr. RESPONDENT

Date of Decision : 03-08-2026

Acts Referred:
Constitution of India — Article 14

Citation : (2026) 08 DEL CK 4234

Hon'ble Judges : Tejas Karia, J;Devendra Kumar Upadhyaya, C.J

Bench : Division Bench

Advocate : Mr. Anil Singhal, Mr. Abhimanyu Sharma, Ms. Anju Bhattacharya, Ms. Nisha R. Chauhan, Mr. Vinod Fulara, Ms. Sakshi Ramola

Judgement

TEJAS KARIA, J. (*ORAL*)

1. The present Letters Patent Appeal ("**LPA**") has been preferred by the Appellant assailing the judgment dated 08.04.2026 ("**Impugned Judgment**") passed by the learned Single Judge in W.P.(C) 6999/2002 ("**Writ Petition**"), as well as the award dated 05.07.2002 ("**Award**") passed by the learned Presiding Officer, Industrial Tribunal No. I, Karkardooma Courts, Delhi ("**Industrial Tribunal**") in I.D. No. 293/1990.

2. The brief facts relevant to the present Appeal are hereunder:

2.1. The Appellant was appointed as a Sales Clerk with Respondent No. 2, *Delhi State Co-operative Union Ltd.*, at the Daryaganj Sales Counter, with effect from 14.07.1971. During the period 1986 to 1989, an internal audit / checking of accounts was undertaken, wherein discrepancies were noticed in respect of entries pertaining to sales and collections.

2.2. A chargesheet dated 12.04.1989 ("**Chargesheet**") was issued to the Appellant, alleging financial irregularities and failure to account for certain receipts. The Appellant submitted his reply dated 17.04.1989 ("**Reply**") to the Chargesheet, wherein he did not dispute the existence of discrepancies, but sought to explain the same by alleging that he had been falsely implicated in order to shield Mr. D.K. Sharma, who was related to a Director of Respondent No. 2.

2.3. Pursuant to the Chargesheet, a domestic enquiry was conducted between April and June, 1989. Upon conclusion of the enquiry, the Enquiry Officer submitted a report holding the charges of misappropriation of funds against the Appellant to have been proved. Consequently, the services of the Appellant were terminated *vide* order dated 30.06.1989 ("**Termination Order**").

2.4. Thereafter, the Appellant raised an industrial dispute, which was referred for adjudication as I.D. No. 293/1990 before the learned Industrial Tribunal. *Vide* order dated 02.09.1996 ("**Tribunal Order**"), the learned Industrial Tribunal set aside the Termination Order on the ground of violation of the principles of natural justice, while granting Respondent No. 2 liberty to lead evidence afresh.

2.5. Thereafter, the learned Industrial Tribunal passed the Award, answering the reference against the Appellant and holding the termination of the Appellant to be justified. Aggrieved thereby, the Appellant preferred the Writ Petition challenging the Award.

2.6. By the Impugned Judgment, the learned Single Judge dismissed the Writ Petition and upheld the Award. Being aggrieved, the Appellant has preferred the present Appeal.

3. Mr. Anil Singhal, learned Counsel for the Appellant submitted that:

3.1. The charges are founded solely upon the testimony of the Presenting Officer, who had no direct knowledge of the alleged discrepancies and was, therefore, incompetent to prove the same.

3.2. No witness pertaining to the internal audit / checking period between 1986 and 1989 was examined, nor were the primary records duly proved. In view of the non-examination of material witnesses, including Mr. D.K. Sharma and the auditors, the Respondents' case remained unsubstantiated, thereby warranting an adverse inference against them. Reliance was placed upon the decisions in ***State of U.P. through Principal Secretary, Department of Panchayati Raj, Lucknow v. Ram Prakash Singh***, 2025 SCC OnLine SC 891 and ***Hardwari Lal v. State of U.P. and Others***, (1999) 8 SCC 582 in support of the aforesaid submissions.

3.3. Once the domestic enquiry had been set aside as illegal and violative of the principles of natural justice, and Respondent No. 2 had been granted liberty only to lead independent evidence, therefore, any admission allegedly made during domestic enquiry did not have any evidentiary value. The Respondents could not simultaneously rely upon such alleged admission and independent evidence, such reliance being inconsistent and untenable in law.

3.4. The alleged admission was, in any event, neither voluntary nor unequivocal, having been made under threat of termination, and its voluntariness was never adjudicated upon. Such an admission could not, by itself, sustain a finding of guilt, particularly when the Appellant had consistently attributed the discrepancies to Mr. D.K. Sharma. Reliance was placed upon the decisions in ***G. Siva Prasad Rao v. Bank of India***, 1987 SCC OnLine AP 294 and ***Jagdish Prasad Saxena v. State of Madhya Bharat***, 1960 SCC OnLine SC 68 in support of the aforesaid submissions.

3.5. Reliance was placed upon the decision in ***Jai Prakash Saini v. Managing Director, U.P. Cooperative Federation Ltd.***, 2026 SCC OnLine SC 505, wherein the Hon'ble Supreme Court held that a reply to a chargesheet cannot, by itself, be construed as an unequivocal admission dispensing with the employer's obligation to prove the charge by way of evidence. It was further held that documents relied upon by the employer must be proved through examination of a witness who may be tendered for cross-examination by the charged employee; a requirement which, admittedly, was not satisfied in the present case.

3.6. The punishment of termination imposed *vide* the Termination Order is wholly disproportionate to the alleged misconduct, particularly having regard to the Appellant's long and unblemished service record, absence of any prior allegations, absence of any financial loss caused to Respondent No. 2, and the mitigating circumstances borne out from the record.

3.7. The Appellant was subjected to discriminatory treatment in violation of Article 14 of the Constitution of India, inasmuch as Mr. D.K. Sharma, who was related to a Director of Respondent No. 2, was permitted to resign without adverse consequences and was even provided alternative employment in respect of the very same alleged lapse, whereas the Appellant was visited with the extreme penalty of termination, thereby disclosing *mala fide* intent on the part of Respondent No. 2.

4. Ms. Anju Bhattacharya, learned Senior Counsel for the Respondents submitted that:

4.1. The setting aside of the domestic enquiry was confined to the procedural irregularities in the manner in which the enquiry was conducted by the Enquiry Officer, and did not efface the Appellant's own written admission of the discrepancies made in his Reply to the Chargesheet, which was a document independent of the enquiry proceedings and was duly proved before the learned Industrial Tribunal. Unlike a confession recorded in a vitiated enquiry, an admission contained in a party's own pleading requires no further corroboration and could legitimately be read along with the independent evidence subsequently led pursuant to the liberty granted under the Tribunal Order.

4.2. The Presenting Officer duly proved the statements of account, cash registers, and sale registers reflecting the discrepancies, none of which were disputed by the Appellant on merits. The Appellant's defence was confined to attributing responsibility to Mr. D.K. Sharma, a plea unsupported by any material on record. The non-examination of Mr. D.K. Sharma and the auditors was, therefore, of no consequence. The decisions relied upon by the Appellant are distinguishable on facts, being cases in which no material was available on record against the delinquent employee. Reliance was placed upon the decision in ***S.V.S Marwari Hospital v. State of West Bengal & Others***, AIR 2015 Calcutta 82, in support of the aforesaid submission.

4.3. The decision in ***Jai Prakash Saini*** (*supra*) is distinguishable and, in fact, supports the Respondents' case. The requirement laid down therein, namely that documents relied upon by the employer must be proved through a witness tendered for cross-examination, was expressly confined to cases where the charge itself is denied by the employee. In the present case, the Appellant, in his Reply to the Chargesheet, did not dispute the existence of the discrepancies; rather, he disputed only his responsibility for the same by attributing them to Mr. D.K. Sharma.

5. We have heard learned Counsel appearing for the Appellant as well as learned Senior Counsel appearing for the Respondents and have perused the material placed on record.

6. The principal issue that arises for consideration in the present Appeal is whether the learned Single Judge erred in upholding the Award passed by the learned Industrial Tribunal, whereby the termination of the Appellant was affirmed, notwithstanding the setting aside of the domestic enquiry and the objections raised with respect to the evidentiary value of the Appellant's Reply to the Chargesheet, the proof of misconduct, and the proportionality of the punishment imposed.

7. The submission of the Appellant that the setting aside of the domestic enquiry rendered the Appellant's admission wholly inadmissible does not have merit as the Tribunal Order set aside the enquiry solely on the ground of breach of the principles of natural justice in the manner in which it was conducted. The Appellant's admission in the Reply to the Chargesheet, which filed independently and prior to the enquiry, wherein the Appellant did not deny the existence of the discrepancies, was not impacted by the Tribunal Order. The admission contained in the Appellant's own pleading was distinct from a confession recorded during an enquiry subsequently found to be vitiated. Therefore, such an admission was rightly be considered by the learned Industrial Tribunal along with the independent evidence led pursuant to the liberty granted to Respondent No. 2.

8. The decision in ***Jai Prakash Saini*** (*supra*), relied upon by the Appellant, does not advance his case. The said decision requires an employer to prove documents through examination of witnesses only where the charge itself is denied by the employee and the order of dismissal rests solely upon documentary evidence. It expressly recognises that no such requirement arises where the employee has admitted the charge.

9. As regards the competence of the Presenting Officer, we find that he was also

the Chief Executive Officer of Respondent No. 2. Just because the sole witness of Respondent No. 2 was the Presenting Officer, he was not disqualified to lead the evidence. Through the oral testimony, he was able to prove the documentary record, namely the statements of account, cash registers, and sale registers, which were duly exhibited and remained unrebutted. The Appellant's defence, both in his Reply to the Chargesheet and before the learned Industrial Tribunal, was never a denial of the discrepancies themselves, but an attempt to shift responsibility onto Mr. D.K. Sharma. However, there was no supporting evidence for shifting the responsibility to Mr. D.K. Sharma.

10. Hence, we do not find any merit in the submission that the non-examination of Mr. D.K. Sharma and the auditors required drawing of an adverse inference against the Respondents. The Appellant, being the employee, in whose custody the accounts and collections were entrusted, was under an obligation to satisfactorily account for the discrepancies, which he failed to discharge.

11. The decisions in ***Ram Prakash Singh*** (*supra*) and ***Hardwari Lal*** (*supra*) are distinguishable, wherein the charge rested on no material whatsoever. In the present case, the charge is founded both upon an unrebutted admission and upon documentary evidence, which was never disputed on merits by the Appellant.

12. Likewise, the decisions in ***G. Siva Prasad Rao*** (*supra*) and ***Jagdish Prasad Saxena*** (*supra*) concerned confessions allegedly obtained under compulsion and unsupported by independent material. However, factual situation in the present case is materially different, where the admission has been corroborated by documentary discrepancies, which the Appellant never traversed.

13. On the submission of the proportionality of the penalty, we are of the considered view that misappropriation of funds and failure to account for receipts by an employee entrusted with the handling of cash, strike at the very foundation of the trust reposed in such employee by the employer. Length of service, however unblemished it may otherwise have been, cannot, by itself, outweigh the gravity of proven financial dishonesty in a position of trust. In these circumstances, the punishment of termination cannot be said to be so disproportionate as to warrant any interference.

14. The plea of discrimination founded upon the treatment accorded to Mr. D.K. Sharma is also without any merit. There is neither any finding nor any material on record to establish that a charge of misconduct was proved against Mr. D.K. Sharma. The case of Mr. D.K. Sharma of unproved allegation and voluntary cessation of service was not comparable to that of the Appellant, against whom misconduct stood proved based on evidence. Article 14 of the Constitution does not extend to a claim of parity where the two situations are not shown to be similarly placed, and *mala fides* cannot be inferred merely from a difference in treatment in the absence of foundational parity.

15. We find that both the learned Industrial Tribunal and the learned Single

Judge have concurrently examined the evidence on record and returned findings which cannot be characterised as perverse or unsupported by evidence.

16. Accordingly, we find that the Appellant has failed to make out any ground warranting interference with the Impugned Judgment dated 08.04.2026 or the Award dated 05.07.2002. The Appeal is, therefore, dismissed. There shall be no order as to costs.

