


MHIC340000712020 	Comp. (ULP) No. 35 of 2020 Order Exhibit No.: O/03 Manoj S/o. Jangluji Patre Vs. M. S. R. T. C. Gadchiroli. Through its Divisional Traffic Superintendent + 1
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JUDGMENT PART -01

(Passed on this 13th Day of February, 2026)

1) In view of Rule 117-A of the Industrial Court Regulations 1975, this court has framed two issues vide Exh. O/02, which were in respect of fairness and legality of enquiry and alleged perversity of findings recorded by enquiry officer are heard as preliminary issues. Those issues are reproduced below along with my findings thereon and respective reasoning thereto;

No.	Preliminary Issues	Findings
1)	Is the procedure in conducting enquiry of the complainant legal, proper and just ?	NO.
2)	Is the findings recorded by enquiry officer legal and proper or is perverse ?	Findings of enquiry officer are perverse.
3)	What order ?	As per final order.

REASONING

2) **AS TO PRELIMINARY ISSUES NO. 01 TO 03: -**

Heard and perused the record. The complainant and the respondents, both have relied upon enquiry papers and enquiry report of enquiry conducted against the complainant.

3) The complainant who was working as conductor with the respondent corporation, was served with charge-sheet dated 30.09.2014 alleging that he has committed misconduct under clauses 7(a), 7(c) 7(d) and 12(b) of Schedule-A of the Discipline and Appeal Procedure of

the respondent corporation. It was alleged in charge-sheet that on 24.09.2014, while the complainant was discharging his duty as conductor on bus bearing No. MH-40/8623 plying from Chandrapur to Bramhpuri, his bus was checked at about 16:18:18 at Sawargaon. At that time, it was found that there were 08 passengers traveling in the bus, out of which one passenger traveling from Palasgaon Jat to Talodhi was found without ticket. The complainant has collected fare amount of Rs. 13/- from this passenger at place of his boarding, but has not issued ticket to him till checking point of bus. When cash with the complainant was checked, it was found excess by Rs. 13/-. The complainant has not issued ticket to said passenger with an intention to misappropriate fund of the respondent corporation and to cause financial loss to it. In domestic enquiry, enquiry officer found that charges leveled against the complainant under clauses 7(a) and 7(d) of Schedule-A of the Discipline and Appeal Procedure of the respondent corporation are proved. Punishment order dated 25.05.2016 of reducing basic pay by two stages with cumulative effect was issued against the complainant. This is under challenge through present complaint.

4) The Hon'ble Supreme Court in case of **State of Uttaranchal and Others Vs. Kharak Singh 2008 III CLR 1062**, has pleased lay down principles while conducting domestic enquiry. They are reproduced as follows;

11) From the above decisions, the following principles would emerge:

- i) The enquiries must be conducted bona fide and care must be taken to see that the enquiries do not become empty formalities.
- ii) If an officer is a witness to any of the incidents which is the subject matter of the enquiry or if the enquiry was initiated on a

report of an officer, then in all fairness he should not be the Enquiry Officer. If the said position becomes known after the appointment of the Enquiry Officer, during the enquiry, steps should be taken to see that the task of holding an enquiry is assigned to some other officer.

iii) In an enquiry, the employer/department should take steps first to lead evidence against the workman/delinquent charged, give an opportunity to him to cross-examine the witnesses of the employer. Only thereafter, the workman/delinquent be asked whether he wants to lead any evidence and asked to give any explanation about the evidence led against him.

iv) On receipt of the enquiry report, before proceeding further, it is incumbent on the part of the disciplinary/punishing authority to supply a copy of the enquiry report and all connected materials relied on by the enquiry officer to enable him to offer his views, if any.

Being guided by these principles, I hereby proceed to discern whether domestic enquiry conducted against the complainant is fair and legal and whether findings recorded by the enquiry officer proper and legal or are perverse.

5) Enquiry report prima facie shows that a charge sheet dated 30.09.2014 was served upon the complainant describing charges leveled against him. All supporting documents were served upon the complainant along with the complaint. Formal charge was framed against the complainant, to which he has denied. The complainant was represented by his representative and an opportunity of cross-examination was given to him. To this extent there is no agitation on part of the complainant.

6) Enquiry report further reveals that, Divisional Traffic Superintendent was appointed as enquiry officer and he conducted enquiry, wherein he has recorded statement of reporting officer and the complainant. On basis of their statement, enquiry officer has concluded that charges against the complainant are proved. Enquiry report further reveals that no presenting officer was appointed by the enquiry officer. Enquiry officer himself has put questions to the complainant. Enquiry report further reveals that the enquiry officer himself has acted as Investigator and Prosecutor. Record further reveals that, when enquiry officer has submitted his report, competent authority has accepted it and decided to impose punishment of dismissal from service on the complainant. Show cause notice to that effect was also issued to the complainant. However, vide impugned punishment order, Divisional Traffic Officer Gadchiroli has passed impugned order reducing basic pay of the complainant by two stage with cumulative effect. Hon'ble Supreme Court in case of **State of Uttaranchal and Others Vs. Kharak Singh 2008 III CLR 1062**, has pleased to observe that, an enquiry, where enquiry officer has acted as Investigator and Prosecutor cannot be called as bonafide, fair and proper. In view of observations of Hon'ble Supreme Court in case of **Kharak Singh**, enquiry against the complainant appears to be biased and prejudiced and cannot be called as bonafide, fair and proper.

7) It is well settled principles of law that, it is not necessary in each and every case that every witness must be examined by the enquiry officer before recording his findings on particular charges. Satisfaction of the enquiry officer as to allegations made against the delinquent and trustworthiness of evidence put forth before him to establish the charge is the core of exclusive domain of enquiry officer. It is the settled position of law that strict provisions of Evidence Act are

not applicable to the domestic enquiry.

8) The complainant is alleged to have not collected ticket fare of Rs. 13/- from the said without ticket passenger till checking of bus, he has also not issued ticket to the said without ticket passenger till checking of bus. The complainant has permitted said without ticket passenger to travel about 08 kilometers without ticket. The enquiry officer on the basis of report of reporting officer, and statement of reporting officer and the complainant has arrived to a conclusion that the charges under clauses 7(a) and 7(d) of Schedule-A of the Discipline and Appeal Procedure of the respondent corporation are proved. Passengers of bus and alleged without ticket passenger were important witnesses who could establish these allegations. Non examination of these vital witnesses has resulted into denial of an opportunity to the complainant to cross examine those witnesses and to impeach trustworthiness of the documents and recitals thereof.

9) One more aspect which has to be taken into consideration is that enquiry officer has arrived to conclusion that charges against the complainant under clauses 7(a) and 7(d) of Schedule-A of the Discipline and Appeal Procedure of the respondent corporation are proved but on basis of same set of evidence has recorded findings to effect that, charges against the complainant under clauses 7(c) and 12(b) of Schedule-A of the Discipline and Appeal Procedure of the respondent corporation are proved. He has relied upon prescription given by doctor to arrive at conclusion that the complainant might have been ill, but simultaneously declined to accept this prescription and defence of the complainant while appreciating evidence for charges under clauses 7(a) and 7(d) of Schedule-A of the Discipline and Appeal Procedure of the respondent corporation. These circumstances reveals that the enquiry officer has failed to apply her judicial mind to the facts

and evidence before her. These conclusions drawn by the enquiry officer, relying upon statement of reporting officer, choosing it as trustworthy against statement of the complainant, without justifying the same by reasons, are not only absurd but perverse too. In these circumstances, in my opinion, findings recorded by the enquiry officer are not sustainable and has to be branded as perverse. As a consequence of these circumstances, **preliminary issues no.01 and 02 have to be answered in negative** to the effect that procedure in conducting enquiry against the complainant is neither legal and proper nor is just, and that findings recorded by the enquiry officer are neither legal nor proper but, are perverse.

10) After having recorded the findings on preliminary issues No. 01 and 02 in negative, in view of principles of natural justice and fair play, the respondents are entitled for an opportunity to prove their allegations against the complainant before the court by adducing evidence, if it so desire. With these reasoning, I pass following order;

O R D E R

01	Preliminary issues no. 01 and 02 are answered in negative to the effect that procedure in enquiry conducted against the complainant is not legal and proper nor is just, and that the findings recorded by the enquiry officer are not legal nor proper but, are perverse
02	The respondents are at liberty to prove charges against the complainant before the court by adducing evidence, if they so desire.

Date: 13.02.2026

(Ravikant T. Sakhare)
Member,
Industrial Court, Chandrapur.

(Ravikant T. Sakhare)
Member, Industrial Court, Chandrapur.

Pronounced on : 13.02.2026
Direct Typed on : 13.02.2026
Checked and signed on : 13.02.2026
Typed by : Shri. A.B. Panpate
Stenographer