


MHIC340000712023 	Comp.(ULP) No. 49 of 2023 Exhibit. O/04. Moreshwar Anandrao Nikhare Vs. Maharashtra State Road Transport Corporation, Chandrapur. Through its Divisional Controller + 1
---	---

JUDGMENT PART 01

(Delivered on this 06th Day of March 2026)

1) This is a complaint under section 28 read with Item- 09 of Schedule IV of the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act 1971 alleging unfair labour practice against the respondents by issuing impugned punishment orders dated 31.03.2023 issued by respondent No. 02.

2) In view of Rule 117-A of the Industrial Court Regulations 1975, this court has framed two issues vide Exh. O/03, 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	I S S U E S	FINDING
1)	Is the procedure in conducting enquiry of the complainant legal, proper and just ?	No
2)	Are the findings recorded by enquiry officer legal and proper or is perverse ?	No. Findings of enquiry officer are perverse
6)	What order?	As per final order.

REASONING**3) AS TO ISSUES NO. 01 TO 03:-**

Heard both the parties and perused the record.

4) The complainant was served with a charge sheet dated 30.09.2019 thereby alleging that complaints are received against him that the complainant left his work place and went to other unit and abuses and use unparliamentary language to the workers and officials working in the other unit. The complainant instigated other workers and compel them not to work and thereby created feeling of being displeased and discontents amongst the employees. Being asked for statement the complainant has denied to give his statement. Previously also, complaints against the complainant in respect of using insulting and unparliamentary language to lady officials working in workshop and store section of the respondent corporation were received. On these set of allegations charges under clauses 10, 20, 22, 26 and 28 of Schedule-A of Discipline and Appeal Procedure of the respondent corporation has been levelled against the complainant. Vide impugned punishment order dated 31.03.2023 issued by competent authority punishment of stoppage of one future increment with cumulative effect is imposed. The complainant is challenging said order before the court through present complaint.

5) 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.

6) Enquiry report prima facie shows that a charge sheet was served upon the complainant describing the charges levelled 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. To this extent there is no agitation on part of the complainant.

7) Enquiry report further reveals that no presenting officer was appointed by the enquiry officer. Enquiry officer himself has put questions to the complainant and has recorded his findings only on basis of evidence of documentary evidence available with him, without examining any witness. Enquiry officer has also recommended the punishment to be imposed by recording his findings on the charges levelled against the complainant. Enquiry report further reveals that the enquiry officer himself has acted as Investigator, Prosecutor and as Judge. Hon'ble Supreme Court in case of **State of Uttaranchal and Others Vs. Kharak Singh 2008 III CLR 1062**, has pleased to observe that, such an enquiry conducted against the complainant cannot be called as bonafide, fair and proper. In view of observations of Hon'ble Supreme Court in case of **Kharak Singh**, enquiry appears to be biased and prejudiced and cannot be called as bonafide, fair and proper.

8) 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.

9) Enquiry officer has acted upon mere report of reporting officer, without examining him. No independent statement was recorded by the

enquiry officer before himself. During enquiry, the competent authority has not examined alleged victims of the incidences or other eye witness of those incidences in enquiry. The Enquiry officer has acted upon report of reporting officer without examining him and without giving an opportunity of cross examination to the complainant. On the basis of mere documentary evidence, the enquiry officer has concluded that the charges levelled against the complainant are proved and show cause notice for the proposed punishment was issued to the complainant. This denied an opportunity to the complainant to test veracity of report of the reporting officer. This resulted into denial of an opportunity to the complainant to cross examine the witnesses and to impeach trustworthiness of the documents and recitals thereof. In these circumstances, in my opinion, findings recorded by the enquiry officer on basis of mere documents without examining any witness, are not sustainable and has to be branded as perverse. As a consequence of these circumstances, preliminary issues no.01 & 02 have to be answered in negative to 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. As a consequence of these circumstances, **preliminary issues no.01 and 02 have to be answered in negative** to the effect that procedure of passing impugned order against the complainant is neither legal and proper nor is just, and that findings recorded 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;

ORDER

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 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: 06.03.2026

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

Argued on : 06.03.2026
Pronounced on : 06.03.2026
Direct Typed on : 06.03.2026
Checked and signed on : 06.03.2026
Typed by : Shri. A.B. Panpate
Stenographer

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