


<b>MHIC340000822023</b> 	Comp. (ULP) No. 54 of 2023 Order Exhibit No.: O/02  Dinesh Sudhakar Muthalkar Vs. Maharashtra State Road Transport Corporation, Gadchiroli. Through its Divisional Controller + 01 )
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### JUDGMENT PART -01

(Passed on this 06<sup>th</sup> Day of March, 2026)

1) In view of Rule 117-A of the Industrial Court Regulations 1975, this court has framed two issues vide Exh. O/01, 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 ?	<b>YES.</b>
2)	Is the findings recorded by enquiry officer legal and proper or is perverse ?	<b>Findings of enquiry officer are legal, proper and not perverse.</b>
3)	What order ?	<b>As per final order.</b>

### REASONING

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

Heard and perused the record. Vide Rule 117B of Industrial Court Regulations that record and proceedings of enquiry is taken into consideration for decision on preliminary issue.

3) The complainant, who was working with the respondent corporation on the post of conductor was served with a charge sheet on

24.11.2016 with allegations of misconduct falling in clauses 7(a), 7(c), 7(d) and 12 (b) of Discipline and Appeal Procedure of the respondent corporation, whereby it is alleged that, on 27.10.2016 when the complainant was performing his duty on bus bearing No. MH-06/S-8869 plying from Aheri to Laheri, it was checked by checking staff and it was found that there were 42 passengers in the bus and out of them 10 passengers were without ticket, out of which three passengers were traveling from Aallapalli to Tadgaon, two were traveling from Allapalli to Chanda, one from Aallapalli to Bhamragadh and one from Allapalli to Laheri. The complainant has collected fare from those passengers but has not issued tickets to them. An enquiry was conducted, wherein allegations against the complainant were found to be proved and vide impugned punishment order dated 14.08.2020 whereby two future increments of the complainant were withheld with cumulative effect. This punishment order is challenged 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 24.11.2016 was served upon the complainant describing the 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 Shri Buradkar and an opportunity of cross-examination was given to him. To this extent there is no agitation on part of the complainant.

6) Perusal of record more particularly say of the complainant to the charge sheet reveals that through his say the complainant himself

has admitted that he has not issued tickets to those without ticket passengers. He has tried to justify this with a case that said area is very sensitive and Naxal affected area therefore he could not compel those passengers to take tickets. Theory put forth by the complainant that he has not issued tickets to those passengers as it is naxal affected area and he could not compel passengers to buy tickets is not justifiable for the reason that the complainant has issued tickets to other passengers in bus and has not issued tickets to selected few passengers. Say of the complainant is sufficient to establish that the complainant has not issued tickets to selected 10 passengers. This is an admission as to misconduct falling in clause clauses 7(a), 7(c), 7(d) and 12 (b) of Discipline and Appeal Procedure of the respondent corporation. Findings recorded by the enquiry officer are based upon report of Reporting Officer and statement of the complainant recorded before him. I do not find any necessity to examine any further witness by the respondent corporation, more particularly when the complainant himself has specifically admitted all relevant facts. Asking for any additional witness is unwarranted. Minimal caution has to be taken by the respondent corporation to follow the principles of natural justice by affording delinquent an opportunity of cross examination and to defend the charges levelled against him. The respondent corporation is found to have followed principles of natural justice. Findings recorded by the enquiry officer are based upon statement of the complainant himself, admitting all relevant facts. No fault can be attributed to enquiry officer while drawing conclusions to effect that, charges against the complainant are proved. Accordingly, in my opinion, enquiry conducted against the complainant was fair and proper and the findings recorded by the enquiry officer are according to record, they are proper based upon according to rules of Discipline and Appeal Procedure of the

respondent corporation. With these reasoning, I answer **preliminary issues No.01 and 02 in the affirmative** to the effect that procedure in conducting enquiry against the complainant is legal, proper and just, and that findings recorded by the enquiry officer are legal, proper and not perverse. With these reasoning, I pass following order;

### O R D E R

01	Preliminary issues no. 01 and 02 are answered in affirmative to the effect that procedure in enquiry conducted against the complainant is legal, proper and is just, and that the findings recorded by the enquiry officer are legal, proper and are not perverse
02	Put up matter for evidence on issue of proportionality of punishment.

Date: 06.03.2026

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

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