



A.F.R.
Reserved on 19.11.2025
Delivered on 19.12.2025

**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

WRIT – A No. - 6734 of 2002

Mohd.Arif Petitioners(s)

Versus

U.P.State Road Respondents(s)
Transport
Corp.Through Its
M.D.And 4 Ors

Counsel for Petitioners(s) : Brijesh Kumar, Abhishek
Singh, Raza Ali Khan,
Sameer Singh, Syed Shabih
Haider, Zuber Hasan
Counsel for : Mahesh Chandra, Puneet
Respondent(s) Chandra, Ratnesh Chandra

Court No. - 25

HON'BLE AMITABH KUMAR RAI, J.

1. Heard Sri Sameer Singh, learned counsel for the petitioner, and Sri Ratnesh Chandra, learned counsel for the respondents.

2. The present writ petition has been filed challenging the order dated 31.05.2002 passed by the Regional Manager, Uttar Pradesh State Road Transport Corporation (hereinafter referred to as 'UPSRTC') Lucknow Region, Lucknow, whereby the petitioner was awarded punishment of removal from service, as well as

the appellate order dated 10.09.2002 by which the appeal of the petitioner was rejected by respondent no. 3, Mandaliya Pradhan Prabandhak (Central Zone), UPSRTC, Terhi Kothi, Lucknow.

3. The brief facts of the case are that the petitioner, while posted on the post of Conductor at Mirzapur Depot, Allahabad Region, was running passenger bus bearing vehicle registration no. U.R.S. 9938 en route from Renukot to Lucknow on 09.03.1990. At about 16:45 hours, between Renukot and Robertsganj, the bus was stopped by the inspection team at a place namely Gurmura, and on inspection it was found that out of 83 passengers, 30 passengers were without tickets, though the fare from them was realised by the petitioner. The inspection team was headed by Sri Heera Lal Upadhyay, Senior Centre In-charge (Checking), along with two Assistant Traffic Inspectors. The inspection team, on finding that 30 passengers were without ticket, issued a common ticket no. 660966 for all passengers, and an inspection report dated 15.09.1990 was forwarded to the Regional Office for further action.

4. Thereafter, a charge-sheet dated 25.09.1990 was issued in which it was alleged that the petitioner realised Rs. 285 from 30 passengers out of a total of 83 passengers but did not issue tickets to them for travelling from Renukot to Robertsganj, as per inspection held on 09.03.1990 at 16:45 hours. By such conduct, the petitioner was held guilty of four charges, i.e., (i) taking 30 passengers for travel in the bus without tickets; (ii) attempt to embezzle the income of the corporation; (iii) involving himself in corruption and misconduct; and (iv)

discharging duty in violation of rules. In support of the charges, the inspection report was annexed with the charge-sheet, and it was also provided that the way-bills and tickets, could be pursued by the petitioner the same in the Regional Office. It was further required by the charge-sheet that the petitioner should file a reply to the charges within 15 days and also inform about the witnesses whom he wanted to cross-examine and other evidence which he wanted to rely upon in defence of the charges against him.

5. The petitioner filed his reply to the charges vide his letter dated 30.11.1990 denying the charges, in which he specifically mentioned for examining of two passengers who were present in the bus on the date of the inspection / checking on 09.03.1990. He also made reference that the inspection report was not supported by any independent witness and, as such, could not be relied upon. During the course of inquiry, the inspection report was proved by Heera Lal Upadhyay, In-charge of the Inspection Team, and the petitioner also cross examined Sri Heera Lal Upadhyay in detail. The petitioner could not get his witnesses examined, and in the meantime he was transferred to Faizabad Region and the Assistant Regional Manager (Karmik) was nominated as the new Inquiry Officer. Thereafter, the Inquiry Officer called upon the petitioner for personal hearing, and Sri K.P. Tiwari, Assistant Traffic Inspector, one of the members of the inspection team, was examined at the instance of the petitioner on 15.03.1998.

6. The petitioner, during the course of inquiry proceedings, produced one of his witnesses, Sri Vinod

Kumar, who stated that from Renukot there were 20 to 30 passengers and after 5 to 7 kms the inspection team confronted the bus, and he overheard that there were 30 passengers. He further stated that he had come as a witness as the conductor had called upon him to give his statement in the disciplinary proceedings. On 15.01.1998, the petitioner appeared before the Inquiry Officer and recorded his statement that his reply to the charge-sheet should be considered as his defence and that he did not want to examine any other person and the inquiry might be completed.

7. The Inquiry Officer, after considering the statements of the witnesses as well as the inspection report and other evidence produced during the course of inquiry proceedings, came to the conclusion that the charges against the petitioner of allowing 30 passengers to travel without tickets after realising fare to the tune of Rs. 285, but not issuing any ticket to them, stood established and proved. Thereafter, a show-cause notice dated 29.01.1998 was issued to the petitioner by the disciplinary authority along with a copy of the inquiry report, to which the petitioner submitted his reply vide letter dated 25.02.1998. The disciplinary authority, i.e., the Regional Manager, UPSRTC, Lucknow Region, Lucknow, thereafter passed the punishment order dated 31.05.2002 terminating the services of the petitioner by awarding the punishment of removal.

8. The petitioner thereafter filed a departmental appeal under Regulation 64 of the Uttar Pradesh State Road Transport Corporation Employees (Other Than Officers) Service Regulations, 1981 (hereinafter referred

to as "Regulations, 1981") before the next higher authority, i.e., Mandaliya Pradhan Prabandhak (Central Zone), UPSRTC, Terhi Kothi, Lucknow, which was rejected after due consideration vide order dated 10.09.2002.

9. The petitioner has assailed the order of removal dated 31.05.2002 on the following grounds:—

(i) No date and time were fixed by the Inquiry Officer during the course of inquiry proceedings, and the disciplinary authority also did not fix any date and time before passing the order dated 31.05.2002.

(ii) The driver of the bus was not charged with the offence of carrying ticketless passengers, and only the petitioner was charged, which amounts to discrimination.

(iii) One independent witness examined by the petitioner, namely Vinod, and another independent witness, Mohd. Abbas, who was to be produced by the petitioner, could not be examined by the Inquiry Officer.

(iv) The third member of the inspection team, i.e., Sri K.P. Tiwari, Assistant Traffic Inspector, who was also part of the inspection team, was not examined by the Inquiry Officer.

(v) The disciplinary authority, vide letter dated 10.03.1998, called upon Sri Heera Lal Upadhyay for certain clarifications, but he did not appear before the disciplinary authority, and as such the disciplinary authority should not have proceeded to pass the order of punishment.

(vi) The charges against the petitioner were stale, and after four years of submission of the reply to

the show-cause notice, the order of punishment was passed.

(vii) The order has been passed by the Regional Manager, UPSRTC, who is not the competent authority to pass the order of removal, as the Assistant Regional Manager is the appointing authority of the petitioner as per the resolution of the Board dated 29.02.1996.

10. Part X of the Regulations of 1981, from Regulation 61 to 69, contains the provisions with respect to conduct, punishment and appeal of the employees of the Corporation. Regulation of 1981 is applicable to Group 'C' and 'D' employees of the Corporation. The petitioner was a Group 'C' employee, and hence the disciplinary proceedings against him are governed by the provisions of the Regulations of 1981. Regulation 64 of the Regulations of 1981 provides the procedure for awarding major penalties.

11. After going through the records annexed with the record of the writ petition as well as the counter affidavit filed in the present case, it transpires that the charge-sheet was issued on 23.09.1990, which contained definite charges against the petitioner. The inquiry report dated 17.01.1998 discloses that the petitioner was granted opportunity of examination and cross-examination of witnesses produced by the Corporation as well. The independent witness produced by the petitioner, who was a passenger traveling in the bus when the inspection / checking was done on 09.03.1990 was also examined.

12. The petitioner has alleged in memo of writ petition that Sri K.P. Tiwari, Assistant Traffic Inspector,

who was the third member of the inspection team, was not examined and another independent witness, namely Mohd. Abbas, was also not examined by the Inquiry Officer which vitiates the disciplinary proceedings. From the records, it transpires that the petitioner himself insisted before the Inquiry Officer to close the inquiry on the basis of his statement and the witnesses already produced by him, along with his reply to the charges, which is evident from the statement made by the petitioner on 15.01.1998 before the Inquiry Officer. The relevant extract, as recorded in the inquiry report, is reproduced hereinbelow :-

"दिनांक-15-1-98 को परिचालक उपस्थित हुआ और अपना बयान दिया कि दिये गये स्पष्टीकरण को ही मेरा बयान माना जाये जाच अधिकारी द्वारा पूछे जाने पर स्पष्ट किया कि मुख्य रिपोर्टकर्ता से बयान होचुका है। श्री के० पी० तिवारी से पूछतांझ करता परन्तु कई तिथि लगायी गयी वे उपस्थित नहीं हुए और अब पूछतांश नहीं करनी है जांच रिपोर्ट भेज दी जाये।"

13. Thus, the claim of the petitioner that certain witnesses were not examined during the course of inquiry proceedings is unsustainable, as the petitioner himself, during the course of inquiry proceedings, forgo his right to examine them by insisting upon the Inquiry Officer to complete the inquiry without examination of such witnesses.

14. Moreover, with regard to the testimony of independent witnesses, the Hon'ble Supreme Court, in the case of **State of Haryana and Another v. Rattan Singh (1977 SCC OnLine SC 145)**, has held that in a

departmental enquiry, the strict and technical rules of evidence are not applicable. The Court further held that the non-recording of statements of independent witnesses, such as passengers, would not vitiate the disciplinary proceedings or render them invalid. Paragraph 5 of the said judgment is relevant for the present case and is reproduced hereinbelow:-

*"5. Reliance was placed, as earlier stated, on the non-compliance with the departmental instruction that statements of passengers should be recorded by inspectOrs. These are instructions of prudence, not rules that bind or vitiate in the violation. In this case, the Inspector tried to get the statements but the passengers declined, the psychology of the latter in such circumstances being understandable, although may not be approved. **We cannot hold that merely because statements of passengers were not recorded the order that followed was invalid.** Likewise, the reevaluation of the evidence on the strength of co-conductor's testimony is a matter not for the court but for the administrative tribunal in conclusion, we do not think the courts below were right in over-turning the finding of the domestic tribunal"*

(emphasis added)

15. The aforesaid principle of law has been reiterated by the Hon'ble Supreme Court in the case of **U.P. State Road Trasnport Corporation v. Suresh Chand Sharma (2010) SCC OnLine SC 648** and paragraph 16 of the said judgement is quoted hereinbelow :-

"16. In State of Haryana & Anr. v. Rattan Singh AIR 1977 SC 1512, this Court has categorically held that in a domestic

enquiry, complicated principles and procedure laid down in the Civil Procedure Code, 1908 and the Indian Evidence Act, 1872 do not apply. The only right of a delinquent employee is that he must be informed as to what are the charges against him and he must be given full opportunity to defend himself on the said charges. However, the Court rejected the contention that enquiry report stood vitiated for not recording the statement of the passengers who were found travelling without ticket.....”.

Hence, the contention of the petitioner that the enquiry proceedings stand vitiated on account of non-examination of certain witnesses is unsustainable.

16. The claim of the petitioner that the Regional Manager is not the competent authority to pass the order of removal is also not tenable, as the Regional Manager is higher in post than the Assistant Regional Manager, and as such it cannot be said that the Regional Manager was not competent to pass the order of removal against the petitioner.

17. The petitioner has also alleged that the disciplinary authority, vide letter dated 10.03.1998, called upon Sri Heera Lal Upadhyay, In-charge of the Inspection Team, before passing the order of punishment, but he did not appear, and as such the disciplinary authority could not have passed the order of punishment. In this regard, the Court has gone through the letter dated 10.03.1998, which was issued by the Regional Manager, Faizabad Region which only reflects that for certain clarifications, Heera Lal Upadhyay was called upon with respect to the

inspection report and for that purpose was required to appear before the Regional Manager on 20.03.1998. This aspect was considered by the appellate authority while passing the order dated 10.09.2002, and it has been clarified that though the Regional Manager, Faizabad Region, vide letter dated 10.03.1998 sought certain clarifications, the Regional Manager, Lucknow, who ultimately passed the punishment order, did not find it necessary to seek any such clarification and he, on the basis of the inquiry report, reply and the evidences available with the record of the enquiry proceedings passed the order of punishment, which is justified.

18. This Court is of the view that merely by issuance of the letter dated 10.03.1998 by the Regional Manager, Faizabad, seeking clarification, it cannot be said that the Regional Manager, Lucknow, should have also sought such clarification. It is the satisfaction of the disciplinary authority, on the basis of material available before him, to take a decision with regard to the charges. Once the disciplinary authority has taken the decision that the petitioner, on the basis of the material on record, i.e., the inquiry report, statements of witnesses recorded during the course of inquiry, reply of the petitioner, and other evidence, is guilty, he is well within his right to pass appropriate orders.

19. The petitioner has also raised a question mark on the findings recorded by the Inquiry Officer on the basis of allegation of bias against the In-charge of the inspection team, Heera Lal Upadhyay. The court is of view that such allegation of the petitioner, to the extent of the conclusion arrived at by the Inquiry Officer, is also not

tenable, for the reason that the petitioner has not made any specific allegation of bias. Merely, because the inspection team did not rely upon the version of the petitioner while preparing the inspection report cannot be a reason to say that the inspection team led by Shri Heera Lal Upadhyaya was biased against the petitioner.

20. The Court has also gone through the appellate order dated 10.09.2002 and finds that it is a well-considered and reasoned order. The grounds taken in the memorandum of appeal filed by the petitioner were duly considered by respondent no. 3 before passing the order dated 10.09.2002.

21. It is needless to mention that the scope of writ jurisdiction while dealing with issues relating to disciplinary proceedings is limited. The power of judicial review is confined to the decision-making process and the power of judicial review conferred on a Constitutional Court or Tribunal is limited.

22. In **State of A.P. v. S. Sree Rama Rao : AIR 1963 SC 1723**, a three-Judge Bench of Supreme Court has held that the High Court is not a court of appeal over the decision of the authorities holding a departmental inquiry against a public servant. It is concerned to determine whether the inquiry is held by an authority competent in that behalf, and according to the procedure prescribed in that behalf, and whether the rules of natural justice are not violated.

23. In **B.C. Chaturvedi v. Union of India : 1996 SCC (L&S) 80**, a three-Judge Bench of Supreme Court has held that power of judicial review is not an appeal

from a decision but a review of the manner in which the decision is made. Power of judicial review is meant to ensure that the individual receives fair treatment and not to ensure that the conclusion which the authority reaches is necessarily correct in the eyes of the court. The court/tribunal in its power of judicial review does not act as an appellate authority to re-appreciate the evidence and to arrive at its own independent findings on the evidence.

24. In **High Court of Bombay v. Shashikant S. Patil : (2000) 1 SCC 416**, Supreme Court held that interference with the decision of departmental authorities is permitted if such authority had held proceedings in violation of the principles of natural justice or in violation of statutory regulations prescribing the mode of such inquiry while exercising jurisdiction under Article 226 of the Constitution.

25. In **State Bank of Bikaner & Jaipur v. Nemi Chand Nalwaya : (2011) 4 SCC 584**, Supreme Court held that the courts will not act as an appellate court and reassess the evidence led in the domestic enquiry, nor interfere on the ground that another view is possible on the material on record. If the inquiry has been fairly and properly held and the findings are based on evidence, the question of adequacy of the evidence or the reliable nature of the evidence will not be ground for interfering with the findings in departmental Inquiries.

26. In another judgment reported as **Union of India v. P. Gunasekaran : (2015) 2 SCC 610**, Supreme Court held that while re-appreciating evidence

the High Court cannot act as an appellate authority in the disciplinary proceedings. The Court laid down the parameters as to when the High Court shall not interfere in the disciplinary proceedings : (SCC p. 617, para 13)

"13. Under Articles 226/227 of the Constitution of India, the High Court shall not:

(i) reappreciate the evidence;

(ii) interfere with the conclusions in the enquiry, in case the same has been conducted in accordance with law;

(iii) go into the adequacy of the evidence;

(iv) go into the reliability of the evidence;

(v) interfere, if there be some legal evidence on which findings can be based.

(vi) correct the error of fact however grave it may appear to be;

(vii) go into the proportionality of punishment unless it shocks its conscience."

27. In view of the aforesaid proposition of law laid down by the Hon'ble Supreme Court and the analysis of the facts of the present case as recorded hereinabove, this Court finds no illegality or infirmity in the order of removal dated 31.05.2002 and the appellate order dated 10.09.2002.

28. Accordingly, this writ petition fails and is **dismissed.**

29. No order as to costs.

(Amitabh Kumar Rai, J)

December 19, 2025

Ashish Dewal