



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

112

CWP-17036-2025 (O&M)

Date of decision: 09.07.2025

Parmod Kumar

...Petitioner

VERSUS

State of Haryana and others

...Respondents

CORAM : HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present :- Mr. Mazlish Khan, Advocate for the petitioner(s).

VINOD S. BHARDWAJ, J. (Oral)

1. Challenge in the present petition is to the order dated 09.10.2024 passed by respondent No.2 viz. Director, State Transport, Haryana, whereby the appeal preferred by the petitioner has been dismissed, as well as to the order dated 09.12.2015 passed by respondent No.4 viz. General Manager, Haryana State Transport, Panipat whereby the punishment of reduction in pay scale and time scale for a period of three years, along with the denial of annual increments during the said period, was imposed upon the petitioner, apart from restricting the suspension period to subsistence allowance only.

2. Learned counsel appearing on behalf of the petitioner contends that the petitioner was appointed as a Conductor in the office of respondent No.3, viz., the Transport Commissioner, Haryana, on a contractual basis in the year 1993, and his services were regularised in the year 1995. It is



submitted that the petitioner continued to discharge his duties with utmost diligence and sincerity. On 17.09.2011, the vehicle, i.e., Bus bearing registration No. HR-67A-0389, was inspected by four Inspectors of the Chandigarh Depot at Sainj, and it was alleged that four passengers travelling from Chandigarh to Rampur had not been issued tickets despite the full fare having been received from them. Counsel contends that the tickets had, in fact, not been taken by the passengers themselves and, instead of penalising the passengers who were travelling without tickets, disciplinary proceedings were initiated against the petitioner. As per the preliminary enquiry, a total of 23 passengers were alleged to be travelling without tickets. The Enquiry Officer reported that there was an embezzlement of Rs.3,770/-. The petitioner was hence suspended vide order dated 27.09.2011 and a charge-sheet dated 28.12.2011 was served upon him. The Traffic Manager was appointed as the Enquiry Officer vide office order No.12141 dated 16.05.2012. The petitioner filed his detailed reply to the said charge-sheet before the Enquiry Officer. He contends that the Enquiry Officer however did not conduct an enquiry into the allegation. Neither any witness was examined by the presenting officer nor was any other evidence led or document submitted. No opportunity to cross-examine the witnesses was also afforded to the petitioner. Hence the charges levelled against him were thus never proved. Nonetheless, respondent No.4 imposed punishment, vide office order No.4063/ECC dated 09.12.2015 to the following effect:

- (i) Reduction of pay scale and time scale for a period of three years;



- (ii) Withholding of annual increments during the said period; and
- (iii) Limiting the suspension period to subsistence allowance only.

3. Aggrieved thereof, a statutory appeal was preferred before the competent appellate authority within the stipulated period. However, when the said appeal remained undecided, the petitioner approached this Court by filing CWP-4535-2024. The said writ petition was disposed of vide order dated 07.03.2024, directing the respondents to decide the pending appeal in a time-bound manner. In compliance thereof, the impugned order dated 09.10.2024 has been passed by the appellate authority vide office order No.5330/A6/E3, whereby the appeal preferred by the petitioner has been dismissed and the order of punishment imposed earlier by the punishing authority has been affirmed. Aggrieved thereby, the instant writ petition has been filed.

4. Learned counsel appearing on behalf of the petitioner has vehemently argued that the respondent-authorities erred in failing to appreciate that the department did not succeed in proving any of the charges against the petitioner. He submits that the responsibility is cast upon the Enquiry Officer to conduct a proper enquiry and to submit a final report as to whether the charges and allegations stand proved against an employee. The Enquiry Officer, having failed in this cardinal duty, rendered the imposition of punishment upon the petitioner without any valid cause and hence unsustainable in law.

5. I have heard the learned counsel for petitioner and have gone through the documents appended with the present writ petition, with his able



assistance.

6. It is evident from the documents on record that during the Course of regular departmental inquiry, the petitioner submitted his letter dated 05.11.2012 to the effect that he did not want his case to be inquired into and to file the case by imposing an appropriate penalty. The Inquiry Officer thus submitted his report. A show cause notice dated 08.01.2013 was thereafter served upon the petitioner (translation is wrong). The order of punishment was eventually passed after affording an opportunity and complying with principles of natural justice. A similar request was submitted by the petitioner yet again before the punishing authority, before punishment order was passed. The operative part of the order reads thus:-

“You did not submit the the reply to the charge sheet in the office. Therefore office number 12141/TC01 dated 16.05.2012, the traffic manager was appointed the investigating officer. During investigation on 05.11.2012, you wrote in the office that I do not want to get my case investigated. You requested me to keep you in service and write about filing a case by paying appropriate penalty. The investigating officer wrote in his comment that keeping in mind the application given by the operator, the report made by the inspectors is based on the truth. Thereafter, through office number 311/TC.1 dated 08.01.2013, show cause notice was issued regarding termination of service and limiting the period of absence to subsistence allowance. On 15.01.2013 you submitted the reply



in office. After this, office number 1581/T.C. 1 Appeared in the office for personal hearing on 05.02.2013. In which the undersigned, after the opinion of the law officer of the office, advised to complete the investigation.

After this, the investigating officer completed the investigation and wrote in his investigation that the allegations levelled against Mr. Pramod Kumar, conductor number 32, were completely proven, and then show cause notice given by the office number 311/TC1 dated 08.01.2013. Show cause notice withdrawn vide office number 3924/TC1 dated 01.12.2015.

Notice of termination of service and limiting the suspended time to subsistence allowance was issued vide office number 6333/TC1 dated 02.12.2015. The answer to which you submitted in the office on 04.12.2015. Considering the reply sympathetically, you were heard in person on 08.12.2015.”

7. The submission of the aforesaid letters/communications before the Enquiry Officer is not disputed by the petitioner. Even though an effort has been made by the petitioner to contend that the said letters were submitted only to avoid the rigours of a full-fledged departmental enquiry, taking into account his family circumstances, I am of the considered opinion that such circumstances cannot, at this stage, suffice to support an argument that, despite the petitioner having himself requested for conclusion of the enquiry proceedings by imposition of punishment on sympathetic grounds,



he would still be permitted to impugn the decision. There is a specific reference to final departmental inquiry in the order but the same has not been appended with the petition. The submission of the said letters amounts to an acknowledgment of guilt by the petitioner. This aspect was sympathetically taken into consideration and the punishment of reduction in time scale for a period of three years was imposed upon him despite a proven charge of financial embezzlement. In the appeal preferred by the petitioner against the said order, the details of all passengers who were travelling without tickets, along with the amount of embezzlement, were specifically mentioned. A relevant extract thereof reads thus:-

“I have perused the appeal filed by the petitioner along with relevant documents & record placed before me. On perusal of case file, it reveals that Sh. Parmod Kumar, Conductor No.32 was issued charge sheet under Rule 7 Haryana Civil Services (Punishment and Appeal) Rules, 1987 vide memo No-31347/TC-1 dated 28.12.2011 for the embezzlement of public money amounting to Rs-3770/-. As per the report, the bus No. 1HR67A-0389, on the route Dehli to Rampur was checked on 17.09.2011 at place Senj in Himachal Pradesh by Balwant Singh Inspector, Juglal Sub Inspector, Parkash Chand Sub Inspector and Daya Chand Sub Inspector and found 23 passengers travelling without ticket in the bus, the detail of which is given as under:-



<i>Travelling From & To</i>	<i>Number of Passengers</i>	<i>Fare per Passenger</i>	<i>Total Amount</i>
<i>Chandigarh to Rampur</i>	<i>04</i>	<i>275/-</i>	<i>1100/-</i>
<i>Shimla to Rampur</i>	<i>13</i>	<i>150/-</i>	<i>1950/-</i>
<i>Shimla to Senj</i>	<i>06</i>	<i>120/-</i>	<i>720/-</i>
<i>Total</i>	<i>23</i>	<i>--</i>	<i>3770/-</i>

It was also stated in the charge-sheet dated 28.12.2011 that Sh. Parmod Kumar has taken money from all the above stated passengers but did not issue tickets to them. Thus, he embezzled the Govt. money amounting to Rs. 3770/- by not issuing ticket to these passengers and keeping the money in his pocket. After issuing charge sheet under rule-7 and waiting for the reply for a stipulated period (i.e.15 days), the Traffic Manager, Panipat was appointed as Enquiry Officer vide order Memo No. 1214/TC-1 dated 16.05.2012. However, on 05.11.2012, the delinquent official submitted a written request (Annexure-A) that he did not want enquiry in his case, hence his case may be filed after imposing penalty. The Inquiry officer submitted his report on 26.11.2014 and found the delinquent official, Sh. Parmod Kumar guilty. The findings of Inquiry officer is re- produced as under-

On perusal of all the documents and reports in the file, I found that during the investigation, Sh. Parmod Kumar, Conductor No.32 neither present any evidence or witnesses in his defence nor did the employee give his statement, rather



before that he wrote to the office that copy of questions, evidence and witness be provided to me that is given by the investigators along with the statement given by me, that can help me to give my statements by reading it and then he wrote to the office that I don't want to see the documents that I had asked for, therefore, I requested you to decide my case sympathetically. I considered carefully, it appears that the conductor had not given the tickets after taking the money for tickets and had embezzled the government money of Rs.3770/-. Hence, I have come to the conclusion that allegations made against Sh. Parmod Kumar, Conductor No.32 are proved.

Hence, I have come to the conclusion that allegations made against Sh. Parmod Kumar, Conductor No.32 are proved.

He was served upon a show cause notice dated 02.12.2015 by the GM, HR, Panipat for termination of his services and to restrict the suspension period to the subsistence allowance. He replied the show cause notice on 04.12.2015. He was given an opportunity to be heard personally by the General Manager, Haryana Roadways, Panipat on 08.12.2015. After personal hearing and going through the findings of the inquiry officer, other available record, the General Manager, Haryana Roadways, Panipat took a sympathetic view and passed orders vide order dated 09.12.2015, whereby his pay scale was reduced to the lower pay scale for three years and further for



not granting him annual increment for the above said period and his suspension was restricted to the subsistence allowance.

On filing appeal with the undersigned, Sh. Parmod Kumar was personally heard by the undersigned on 18.09.2024, During his personal hearing he submitted that the inspecting team did not record statement of the without ticket passengers, neither his cash was checked. He further submitted that the inspecting team did not close the ticket number on waybill. But he failed to produce any material evidence in support of his innocence or non-guilty.

I have gone through the available record, such as a report made by the Checking staff, findings of the Inquiry officer etc. It is evident from the perusal of file that Sh. Parmod Kumar submitted a written request to the General Manager, Haryana Roadways, Panipat that he did not want any enquiry in his case and his case may be filed after imposing appropriate penalty upon him. Further, he did not submit any written statement to the charge sheet nor he submit the same to the Inquiry officer at the time of inquiry, where he was given ample time to submit the reply or produce evidence or witness in support of his case. He also demanded the statements recorded by the Inspectors/Sub Inspectors and questions asked from the checking staff from the Inquiry Officer to enable him to defend his case in inquiry and there after he refused to take any



document from IO (Annexure-B) and rather requested to decide his case sympathetically. This is recorded in the findings given by the Inquiry officer in his report, which proves that he is guilty for embezzlement of public money amounting to Rs.3770/-. There are departmental guidelines/Instructions issued vide Memo dated 02.09.2022 to decide such cases of embezzlement by the conductors, the relevant part of which is given as under:-

If the driver/conductor is found involved in embezzlement of govt. money of more than Rs.2000/- then an FIR should be lodged against him and he should be suspended and a charge sheet should be issued under Rule-7 of Haryana Service Act, 2016 and punishment will be given under 4 (b).

According to the above instructions, he is liable for a stricter action and I don't see any ground to interfere in the findings of Inquiry Officer and orders of competent authority i.e. General Manager, Haryana Roadways, Panipat on dated 09.12.2015.”

8. It is evident that the appellate order makes a detailed reference to the inquiry report dated 26.11.2014 proving charges against the petitioner, yet, the petitioner has conveniently chosen not to make any reference of the same in the entire writ petition. Selective omission of documents seems to be a conscious effort on the part of the petitioner since it is not the case that no such inquiry was conducted or that copy of the inquiry report had not been



supplied to him. Conveniently, the petitioner slaps the entire developments between 2013 till order of punishment in an attempt to give misleading impression, a trend which fasts seems to be growing.

9. The petitioner does not dispute any of the facts recorded in the appellate order and yet the facts as recorded therein are not even mentioned in the petition.

10. A specific reference is also made to the earlier request submitted on 05.11.2012 by the delinquent official himself, wherein he categorically stated that he did not wish for an enquiry to be conducted in the matter and that the case may be closed after imposing a penalty. Hence, there was a clear reiteration of his intent not to contest or dispute the allegations. Surprisingly, an argument was consistently raised that charges were not proved and no evidence or documents were led, however, the primary document viz. the inquiry report dated 26.11.2014 has not been appended. A document cannot be assailed without the same having been attached to verify the argument against it. The only inference which flows is that the primary document has been withheld on purpose, hence, inference would flow against the petitioner. In any case, departmental proceedings are not in the nature of criminal trials wherein the prosecution is required to prove its case beyond reasonable doubt. The standard applicable is that of the preponderance of probabilities. Once the charges and allegations were not disputed by the charged official, the respondent-authorities were well within their competence to accept the admission of guilt and proceed accordingly. The petitioner has failed to prove any of his arguments by



referring to relevant documents or law to show as to what illegality or perversity plagues the order.

11. Besides, the scope of interference in judicial review of departmental proceedings is limited. Unless there is a demonstrable illegality, gross impropriety, or perversity, an order of punishment passed by the disciplinary authority and upheld by the appellate authority would not ordinarily warrant interference by the High Court in the exercise of its powers under Article 226 of the Constitution of India.

12. The allegations levelled against the petitioner were grave, with as many as 23 passengers found to be travelling without tickets. The contention raised by the petitioner—that such a large number of passengers had not taken tickets—cannot *ipso facto* be accepted as an indicative of normal conduct. A bus with a passenger-carrying capacity of approximately 52–60 persons, where nearly half of the passengers are found without tickets, would, by itself, be reflective of the petitioner’s negligence or charge. Thus, considering the matter from either perspective, the lapse on the part of the petitioner does not warrant invocation of this Court’s extraordinary writ jurisdiction. He has been afforded sufficient opportunity by the respondent-authorities, and the impugned order has been passed strictly in accordance with the procedure prescribed by law.

13. The present writ petition is accordingly ***dismissed in limine***.

14. At this juncture, learned counsel for the petitioner contends that the retiral dues of the petitioner have not been released by the respondents, as the department had withheld the same owing to the pendency of the



disciplinary proceedings. I find no valid justification for withholding the retiral dues of the petitioner once the punishment had already been imposed. The respondent-State is, therefore, directed to forthwith release the admissible pensionary benefits to the petitioner, expeditiously and not later than **03 months** from the date of receipt of a certified copy of this order. Failing compliance, within the stipulated period, the petitioner shall be entitled to interest at the rate of 6% per annum, with effect from the expiry of the said period, until the date of final disbursement.

(VINOD S. BHARDWAJ)
JUDGE

09.07.2025

Mangal Singh

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No