

2025 LiveLaw (SC) 1029

**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION**

SANJAY KAROL; J., PRASHANT KUMAR MISHRA; J.

OCTOBER 27, 2025

CIVIL APPEAL NO.13017 OF 2025 (ARISING OUT OF S.L.P. (CIVIL) NO.30819 OF 2025) [@
DIARY NO. 19424 OF 2019]

**V.M. SAUDAGAR (DEAD) THROUGH LEGAL HEIRS *versus* THE DIVISIONAL
COMMERCIAL MANAGER, CENTRAL RAILWAY & ANR.**

Service Law – Departmental Enquiry – Natural Justice – Non-examination of Complainant – Perverse Findings - Where the Enquiry Officer relied upon a written complaint of bribery without examining the complainant and the other witnesses did not support the charge, such findings are perverse and cannot sustain a dismissal order – Held, the Central Administrative Tribunal (CAT) was justified in setting aside the penalty - the High Court erred in interfering with such findings - Non-examination of a material witness whose statement formed the foundation of the charge and was never subjected to cross-examination vitiates the enquiry for denial of fair hearing - Noted that While the High Court held that judicial review could not be exercised over findings of fact, the Supreme Court clarified that when findings are based on “completely misleading material” or are perverse, interference is justified - Judicial review is permissible where the conclusion of guilt is unsupported by evidence or based on no evidence - Appeal allowed. [Relied on *State of Andhra Pradesh v. S. Sree Rama Rao*, AIR 1963 SC 1723; *Kuldeep Singh v. Commissioner of Police*, (1999) 2 SCC 10; *Union of India v. H.C. Goel*, AIR 1964 SC 364; *Paras* 17-19]

For Petitioner(s): Ms. Kashmira Lambat, Adv. Mr. Kishor Lambat, Adv. Ms. Suja Joshi, Adv. M/S. Lambat and Associates, AOR

For Respondent(s): Mr. Vikramjit Banerjee, A.S.G. Mr. Samir Singh Kachwaha, Adv. Mr. Rahul Mishra, Adv. Mr. Abhishek Singh, Adv. Mr. Aayush Ananad, Adv. Mr. Amrish Kumar, AOR

J U D G M E N T

PRASHANT KUMAR MISHRA, J.

1. Delay of 519 days is condoned.
2. Leave granted.
3. The present Appeal challenges the final judgment and order dated 21.09.2017 in Writ Petition No. 2461 of 2002 passed by High Court of Judicature at Bombay (Nagpur Bench), whereby the High Court had reversed the judgment dated 21.03.2002 passed by the Central Administrative Tribunal¹, Mumbai Bench setting aside the dismissal order of the appellant (now deceased) and directing his reinstatement.

FACTUAL MATRIX

4. At the relevant time, the appellant was serving as a Travelling Ticket Examiner (TTE) in the Central Railway, Nagpur. On 31.05.1988, while he was on duty in the Second-Class Sleeper Coach of the 39-Down Dadar– Nagpur Express, a surprise check was conducted by the Railway vigilance team.

¹ For short, ‘CAT’

5. It was alleged that appellant had demanded illegal gratification from passengers, which included, Rs. 25/- from Hemant Kumar, unrefunded Rs. 20/- from Dinesh Choudhary, and unrefunded Rs.5/- from Rajkumar Jaiswal, for the allotment of berths. Further charges against the appellant included him being found in possession of excess cash of Rs.1254/- (excluding personal and railway cash), his failure to recover Rs.18/- as fare difference from a passenger (for Ticket No.444750), and the forging of a duty card pass by extending its validity without authority.

6. Basing the surprise check, a charge-sheet dated 03.07.1989 was issued against the appellant under the Railway Services (Conduct) Rules, 1966² and a departmental enquiry was initiated against him. It was alleged that the appellant had demanded illegal gratification from the passengers. Thus, it was alleged that the appellant had exhibited lack of integrity and devotion to duty under Rule 3(1)(i) and (ii) of 1966 Rules.

7. During the enquiry, the complainants/passengers - Dinesh Choudhary and Rajkumar Jaiswal along with Vigilance Inspector N.C. Dhankode were examined. However, another complainant - Hemant Kumar was not examined. The Enquiry Officer submitted his report on 31.12.1995 to hold that all charges were proved against the appellant. Accepting the report of the Enquiry Officer, the Divisional Commercial Manager, Nagpur, the Disciplinary Authority, by order dated 07.06.1996 imposed the penalty of dismissal from service against the appellant. Aggrieved by the dismissal from service, the appellant preferred a departmental appeal which was dismissed on 30.07.1997.

8. The appellant thereafter approached CAT, Mumbai Bench, Camp Nagpur, by filing Original Application No. 431 of 1997 which was allowed *vide* order dated 21.03.2002 quashing the dismissal order against the appellant and directing his reinstatement with all consequential benefits.

9. Challenging the order passed by CAT, the respondents herein approached the High Court by preferring a writ petition. By an interim order, the High Court stayed the CAT's direction for reinstatement of the appellant and under the impugned final judgment dated 21.09.2017, the High Court allowed the writ petition preferred by the respondents herein and had accordingly set aside the CAT's decision dated 21.03.2002 and upheld the dismissal of the appellant from service. During pendency of the writ petition before High Court, the delinquent employee/appellant passed away, and his legal heirs were brought on record who have now preferred the present Appeal.

10. According to the High Court, the Enquiry Officer's findings were supported by evidence and the charges were duly proved against the appellant. Therefore, CAT had wrongly interfered with the findings recorded by the Disciplinary Authority which was duly affirmed by the Appellate Authority and that judicial review could not be exercised in such matter.

SUBMISSION OF PARTIES

11. We have heard the learned counsel for the parties and perused the material available on record.

12. The learned counsel for the appellant(s) submitted that the impugned judgment of High Court is legally unsustainable as it reverses a well-reasoned order passed by CAT. The penalty order was a mere mechanical reproduction of the Enquiry Officer's report without any independent application of mind. It was vehemently argued that the primary complainant-Hemant Kumar, whose written statement formed the basis of the charge of

² For short, '1966 Rules'

illegal gratification, was not examined during the enquiry and his statement was never subjected to cross-examination. Therefore, placing reliance on such a material, without affording the appellant an opportunity of testing it, constituted denial of a fair hearing.

13. It was next submitted on behalf of the appellant(s) that the other two complainants/passengers, namely Dinesh Choudhary and Rajkumar Jaiswal, did not support the case of the respondents and, in fact, corroborated the appellant's version. However, their statements were perversely construed to sustain the charge against him.

14. On the second charge, learned counsel argued that the possession of Rs.1254/- on 31.05.1988 was not misconduct, as there was no rule prescribing a ceiling on the cash a Travelling Ticket Examiner (TTE) could carry. It is further submitted that the amount was duly deposited in the Railway Sundry Accounts and no allegation of misappropriation was made or proved.

14.1 On third charge, the learned counsel for appellant(s) submitted that the alleged failure to recover a fare difference of Rs.18/- from a passenger (for Ticket No.444750) remained unproved as the relevant receipt book was not produced and the necessary witnesses were not examined.

14.2 On the fourth charge of forgery in relation to Duty Card Pass No. 030545, learned counsel submitted that the same was unsupported, as no handwriting expert opinion was obtained and even the Enquiry Officer did not conclusively hold it proved.

15. In light of the above, learned counsel submitted that all the charges against the appellant remain unproved and prayed for setting aside of impugned judgment of High Court.

16. Per *contra*, on merits, learned ASG for the respondents submitted that the order of dismissal was a reasoned and speaking order passed after giving the appellant adequate opportunity of defence, strictly adhering to the principles of natural justice. It is further submitted that the findings reached by the Enquiry Officer were supported by reasons and the Disciplinary Authority, after due application of mind, imposed the penalty of dismissal. Therefore, CAT ought not to have interfered with the findings. In respect of non-examination of Hemant Kumar, it is argued that the same does not render the enquiry against the appellant as invalid.

17. Let us look at each of the charges levelled against appellant and the findings reached by the Courts below.

17.1 In respect of the first charge of demanding illegal gratification from three passengers for allotment of berths in the train, it is to be seen that one of the passengers, namely Hemant Kumar, was not examined and the other two passengers, namely Dinesh Choudhary and Rajkumar Jaiswal have not supported the charges against the appellant. CAT had reproduced their statements in its order. In response to a specific question as to whether the appellant demanded illegal gratification of Rs.20 from Dinesh Choudhary for allotment of berths, the witness (Dinesh Choudhary) categorically says that the appellant had not demanded any illegal gratification and that the appellant had categorically told that he would return the balance amount and would give a receipt afterwards as he was to attend 2-3 Coaches. In reply to another question, he again reiterated that the appellant never demanded any illegal gratification. Similar is the case with another complainant - Rajkumar Jaiswal whose statement is full of contradiction inasmuch as the charge is of paying Rs.50; however, the receipt issued by the appellant for the same was of Rs.45. But Rajkumar Jaiswal deposed that he had made payment of Rs.120 to the appellant. Thus, his statement is contrary to the charge itself. It is also to be seen that the Enquiry Officer

relied upon the statement of Hemant Kumar even though he was not even examined during enquiry and was thus not subjected to cross-examination.

17.2 In respect of the second charge the appellant being found in possession of excess undeclared cash amounting to Rs.1254/- (excluding his own private cash), it is important to bear in mind that the appellant is said to have deposited the said amount in the Railway Sundry Accounts on the date of incident. Moreover, no official document had been placed before the Enquiry Officer to substantiate this charge. Before CAT, the respondents had placed reliance on a circular dated 22.08.1997 issued by the Railway Board which was not accepted by CAT on the ground that the same was issued after the date of the incident. We are in agreement with CAT's reasoning for not accepting the said circular.

17.3 The third charge against the appellant was that on 31.05.1988, he failed to recover a difference of fare of Rs.18/- from a passenger bearing Ticket No. 444750 travelling on berth no. 52 from Dadar to Nagpur. This amount is said to have been recovered later in the presence of the vigilance team. This charge was found proved merely on the basis of the statement of the Vigilance Inspector - N.C. Dhankode ignoring the fact that the passenger bearing the said ticket number has not been examined and nor the excess fare receipt book highlighting about the amount of Rs.18/- has been produced before the Enquiry Officer.

17.4 The fourth charge against the appellant was that he had forged the signature to extend the validity of his duty card pass no.030545 which was valid till 31.03.1986. However, the appellant is said to have forged the signature of G.S. Topre, Office Superintendent Pass Section, Nagpur, to extend the validity of his card first up to 29.03.1987 and then further up to 31.03.1988. This charge was found not proved by the Enquiry Officer. No evidence has been adduced to prove the charge of forgery and only the authenticity of the pass has been verified by the Enquiry Officer with the statement of the S.M. Gole, then Office Superintendent Pass Section. CAT noted that even the alleged forged signature has not been sent to handwriting expert.

18. In the above view of the matter, all the charges have not been found to be proved conclusively against the appellant and CAT, on the basis of the material on record, had rightly interfered with the penalty of dismissal from service against the appellant. The High Court has failed to take note of the legal position that when the findings of the Enquiry Officer were perverse basing on completely misleading of the materials produced before the Enquiry Officer, CAT was fully justified in setting aside the order of penalty. The incident happened on 31.05.1988, that is more than 37 years back. In the meanwhile, the delinquent employee has passed away. Therefore, while setting aside the impugned judgment of the High Court and restoring the order of CAT, we direct that all the consequential monetary benefits including pensionary benefits shall be released in favour of the appellants who are legal heirs of the deceased employee within a period of three months from today. Ordered accordingly.

19. The Appeal is, accordingly, allowed.