

(2002) 10 CAL CK 0007
In the Calcutta High Court
Case No : M.A.T. No. 4256 of 2000

Calcutta State Transport Corporation	Vs	APPELLANT
Pradip Kumar Banerjee and Others		RESPONDENT

Date of Decision : 03-10-2002

Acts Referred:

Calcutta State Transport Corporation Employees Service Regulations, 1961 — Regulation 41

Citation : (2003) 2 ILR (Cal) 22 : (2003) 2 LLJ 386

Hon'ble Judges : Ashok Kumar Mathur, C.J.; Jayanta Kumar Biswas, J

Bench : Division Bench

Advocate : Milan Bhattacharjee and Atarup Banerjee, for the Appellant; Arunava Ghosh, Manas Kumar Ghosh, Dwaipayan Sen Gupta and Sant Biswas, for the Respondent

Final Decision : Allowed

Judgement

Jayanta Kimar Biswas, J.—The Calcutta State Transport Corporation (in short C.S.T.C.) preferred this appeal against the judgment and order, dated November 9, 2000, passed by a learned single Judge of this Court, on the writ petition [C.O.No. 14358(W) of 1981] filed by the respondent No. 1 (hereinafter referred to as the writ-petitioner).

2. The punishment of removal from service with effect from January 11, 1984, as had been imposed on the writ-petitioner in a disciplinary proceeding as well as the enquiry report, was set aside by the impugned judgment and order together with a direction for his reinstatement with arrears of salary at the rate of subsistence allowance.

3. With effect from March 17, 1977 service of the writ- petitioner's father, who was a starter in the C.S.T.C., was terminated on medical ground. Therefore, on compassionate grounds with effect from May 14, 1980 the writ-petitioner was appointed by the C.S.T.C in the post of bus conductor.

4. Soon after his appointment the writ-petitioner was found involved in financial irregularities. Consequently, by an order No. 1373-C.S.T.C.(S), dated September 13, 1980, together with punishment for having an excess of Rs. 4.55 in his cash-bag, the writ-petitioner was warned that in the event of his involvement in any financial irregularities during the next three years, without showing any mercy whatsoever, he would be removed from service.

5. The next incident, however, took place within a year. Alleging that on July 29, 1981, while on duty, the writ-petitioner had indulged in financial irregularities, a chargesheet No. 1196/C.S.T.C.(S), dated August 11/12, 1981, was issued against him. Simultaneously, he was placed under suspension.

6. On the writ-petitioner's denying the truth and correctness of the charges, an enquiry was conducted by a duly appointed enquiry officer. In support of the charges four witnesses were examined and documentary evidence was produced. Opportunity was given to cross-examine the witnesses, some of whom were cross-examined by the writ-petitioner. In his defence, besides submitting the written statement of defence denying the correctness of the charges, the writ-petitioner produced a defence witness.

7. The enquiry officer submitted his report, dated September 30, 1981 recording the findings of guilt. The report is quoted below:

"In this case there are three charges against this conductor, viz.:

(i) trying to drop down one ten rupee currency note, i.e., an amount of Rs. 10 from his possession with motive;

(ii) causing a deficit of Rs. 3.20 only in his cash bag; and

(iii) gross misconduct.

The case against this conductor is that on July 29, 1981 while he was on duty in WBS 1732 of route No.S5, the checking staff at Esplanade L.20 stand at about 14.55 hrs. grew suspicious on his movements, boarded his bus and asked him to come down from the bus for submitting to cash bag checking. At this stage he took in his right hand one ten rupee currency note from his left hand and was about to drop the amount inside the driver's cabin of his bus when the checking staff caught hold of his hand and the currency note in question fell on the floor of the bus inside the cabin. The checking staff then picked up the currency note and seized the amount. Thereafter his cash bag was checked and a deficit of Rs.3.20 p was found in it.

The conductor submitted a written defence in which he denied the first and third charges as baseless and motivated.

As regards the second charge, he did not however deny the factum of deficit found on bag checking. He ascribed this deficit to overturning of his cash bag. He claimed to have informed the starter at Laketown terminus about this. He named this starter as witness in his defence before me. He pleaded not guilty to the

charges. This starter has been examined in this case defence witness 1.

Prosecution examined four witnesses in this case, viz., PWK(TE220), PW2 (Z.I.A.Chande), PW3 (TE214) and PW4 (ST63). Besides this evidence we have before us the receipt for the deposit of Rs. 10 marked Exhibit A in this case, the bag check report marked Exhibit B in this case, the report of TB 220 marked Exhibit C in this case. We have also before us the waybill of the conductor.

As regards charge (i), PW1 in his evidence fully supported (sic) prosecution case. This witness said that this entry was (sic) in the bag check remarks column and the conductor duly counter signed (sic) this entry. The bag check report fully supports his evidence.

PW2 and PW3 also supported that this conductor duly counter signed this entry. The conductor cross-examined PW1 and PW3 but could not suggest anything to discredit their evidence in this case. The conductor did not cross-examine PW2 at all.

From the evidence adduced before me I am convinced that PW1 has given us the truth. There is no reason why he should implicate this conductor falsely.

After giving my careful consideration to the entire evidence on record I hold that charge (i) has been established in this case.

As regards the second charge, the conductor ascribed this deficit to over turning of his cash bag. He named the starter to whom he claimed to have said this fact. This starter in his evidence admitted that this conductor told him this fact. But this will not do, There is nothing on record to support this defence case. The conductor did not write anything in his way bill. The starter admitted that he did not record anything in the logbook. However obliging the starter might be to the conductor, I am inclined to hold that he did not give us the truth. If this had really taken place there must have been some record somewhere. But in the absence of any recorded evidence I hold that this did not happen at all. I therefore reject the defence case as one of after thought.

In view of the fact discussed above with regard to the first charge, I hold that the conductor caused this deficit.

The evidence on record fully supports this charge.

I thus hold that charge (ii) also has been established in this case.

The third charge is a progeny of the first and second charges. In view of my finding relating to the first and second charges as discussed above, I hold that the third charge also has been established in this case."

8. After considering the enquiry officer's report, the disciplinary authority decided to issue a second show-cause notice; said decision is quoted below:

"Seen the report of the EQ and connected papers. There are three charges against this conductor:

- (i) he tried to drop down one ten-rupee note, i.e., an amount of Rs. 10 from his possession with motive;
- (ii) he caused a deficit of Rs. 3.20 only in his cash bag; and
- (iii) gross misconduct.

In his reply, dated August 18, 1981, to the chargesheet, he denied the charges but he did not deny the factum of deficit and put forward the ground of such deficit to be (sic) toppling down of his cash bag due to crowding. In defence he produced one defence witness, i.e., TE 343 (sic) who stated at the time of his deposition before the EO that the conductor told him about the toppling down of his cash bag but he did not record the matter in the logbook or in the waybill of the conductor. He himself did not witness the incident. The conductor has stated in his reply that he told TE214(sic) about toppling of his cash bag but he did not cross-examine the TE214 (sic) about (sic) point. There is nothing on record to show that his cash bag overturned. So this defence plea can hardly be accepted. As regards charge No. (i) the conductor has tried to shirk his involvement by saying that the find of Rs. 10, was a lost property. In the bag check-report, the checking staff recorded the incident and the conductor signed it being fully satisfied. The amount of Rs. 10 being seized has duly been deposited to the CTO Cash vide receipt No. 0954, dated July 30, 1981. There is a record of the incident in the waybill of the conductor also. This conductor did not protest against such recordings and did not inform office anything about coercion if made by the checking staff. He has not been able to discredit the evidence of the prosecution witnesses in this respect. Hence I agree with the findings of the EO and hold that all the three charges against this conductor have been established after enquiry and he is found guilty of the same. The charge No. (i) is a very serious one, which reflects that he tried to evade excess collection in his cash bag by trying to drop down Rs. 10, which the checking staff recovered and seized. If this amount is counter balanced with the find of the deficit of Rs. 3.20 p excess of Rs. 6.80 p occurs. In an earlier occasion he has been punished for having an excess of Rs. 4.55 in his cash bag and he was told vide No. 1373-C.S.T.C.(S), dated September 13, 1980, that he would be removed from service if he becomes involved in any financial irregularities during the next three years without showing him any mercy whatsoever. But he has been involved in the financial irregularities within the span of one year only. Taking all factors into consideration, I therefore consider him a totally unsuitable person in a public utility concern like this. I accordingly order provisionally that he should be removed from the services of this Corporation. Issue second show-cause notice and send him copies of depositions, report of the enquiry officer and orders thereon along with notice."

9. Accordingly, the writ petitioner was served with the memo No. 1748-C.S.T.C. (S), dated October 20, 1981, whereby an opportunity was given to him to show cause as to why the punishment of removal from service should not be imposed on him. Copies of the depositions, report, etc., were supplied to the writ-

petitioner along with the said second show-cause notice.

10. Instead of showing cause, the writ petitioner challenged the said chargesheet, enquiry report and second show-cause notice by filing the writ-petition which was affirmed on November 10, 1981. The case made out in the writ petition was as follows:

Some employees of the C.S.T.C. had been enraged with the writ-petitioner's appointment on compassionate ground, as they could not succeed in the matter of engaging their own persons in the post. During his service career, the writ-petitioner had found that, so as to compel him to leave the service, some Ticket Examiners always tried to implicate him in false cases. The allegations made in the chargesheet, which were the out-come of the conspiracy made by the Ticket Examiner No. 220 against the writ-petitioner, were false. During the enquiry, in spite of his request to record the depositions of witnesses in vernacular, so that he could cross-examine the witnesses effectually, and also could understand the nature of the depositions, the enquiry officer turned down his such prayer, and recorded the depositions in English. The enquiry officer not only did not record the writ-petitioner's deposition properly, but also deliberately omitted to record the material and relevant facts stated by the writ-petitioner. Evidence of Ticket Examiner No. 220, who was an interested witness, had not been corroborated by any of the other witnesses examined. The enquiry was held with a closed and biased mind. As he had not been given reasonable opportunity of defending himself, the enquiry was vitiated by violation of principles of natural justice. There was no direct evidence in support of the charges.

11. Initially, by an interim order passed on the writ petition, the C.S.T.C. was restrained from passing the final order; subsequently, such interim order was vacated and liberty was given to pass the final order with the condition that the same would abide by the result of the writ petition [which apparently on the rule being issued was renumbered as C.R.No. 15221(W) of 1982: ref. p, 131 of P.B.], Thereupon, the writ-petitioner was again given an opportunity to show cause as to why the punishment of removal from service should not be imposed on him. :

12. Consequently, he submitted the representation, dated November 14, 1983, he contended as follows:

As the chargesheet had been issued and the enquiry officer had been appointed by the Special Officer, Administration and competent authority, the Director of Operations and Head of the Department of the C.S.T.C had no jurisdiction to issue the second show-cause notice; therefore, the notice was void abinitio. Power of removal of employees, conferred on the Director of Operations and Head of the Department, having been delegated subsequent to the writ-petitioner's appointment in the C.S.T.C, the Director of Operations had no power and jurisdiction to remove the writ-petitioner from service. For the deficit of Rs. 3.20 in cash bag, without giving an opportunity to deposit the amount in deficit, no chargesheet could be lawfully issued. The fact of issuing the second show-

cause notice after coming to the conclusion of provisional guilt, indicated that the authority had acted with closed mind.

13. Thereafter, the punishment order, dated January 10, 1984, was passed by the Director of Operations and Head of the Department of the C.S.T.C. The relevant portion of the order reads as follows:

"Your representation, dated November 14, 1983 has been considered but no convincing ground has been found in it so as to modify/revise the provisional order as aforesaid. The provisional order of removal, dated October 17, 1981, is therefore confirmed and it is ordered that you be may be removed from the services of the Corporation with effect from January 11, 1984 subject to any order which may be passed by the Hon"ble High Court in the pending rule."

Accordingly, with effect from January 11, 1984 the writ- petitioner stood removed from the service of the C.S.T.C.

14. By a supplementary affidavit, affirmed by the writ-petitioner in the month of November 2000, the said punishment order dated January 10, 1984, was brought on record before the learned single Judge. While praying for leave to file the said supplementary affidavit, the writ-petitioner contended that the punishment order, having been passed on the basis of perverse findings and illegal chargesheet, was liable to be quashed. Although the punishment order was appealable under Regulation 41 of the C.S.T.C. Employees' Service Regulations, 1961; it appears, the writ-petitioner had not preferred any appeal against the same. It also appears that without filing any affidavit-in-opposition the C.S.T.C. contested the case before the learned single Judge.

15. The writ petition was finally disposed of by the impugned judgment and order, dated November 9, 2000. By an order, dated March 28, 2001, passed in this appeal, operation of the impugned order was stayed; the stay is still in operation.

16. The findings of the learned single Judge were as follows:

"On the issue of dropping of 10 rupee note, there is no other evidence. The driver was not called to give evidence. From the evidence two things are clear that TE-220 travelled in the bus at least from L-20 stand to S.5 terminus and during that period, apart from him no other prosecution witness was present in the bus in question. Therefore in relation to dropping of 10 rupee note there was an assertion by TE-220 and denial by the petitioner. Therefore, there was no acceptable evidence at all in that respect. Alive of the situation, no part of the evidence was discussed by the Enquiry Officer in his report. In so far as the second charge is concerned, the rules provide that the punishment would be to compensate. Therefore the question is, on the basis of the enquiry report and other materials, could a second show- cause notice be issued holding out that the guilt of the petitioner is such that the same requires treatment by inflicting the punishment of dismissal? It does not appear that the disciplinary authority

applied independent mind at all. The one and the only question is whether such a decision in the facts and circumstances of the case is perverse or not? If the root goes, there is no existence of the tree. If the second show-cause notice is bad on the ground that the same is perverse, the order of removal of the petitioner passed subsequently, cannot stand. Therefore whether any appeal has been preferred against the order is of no consequence at all.

I thus conclude that the finding of the enquiry officer on the basis of the evidence considered and having regard to the rules relating to the second charge, the enquiry report as well as the second show cause were perverse and accordingly I set aside the same. Any step taken pursuant to the same automatically stands quashed.

The petitioner shall be reinstated in service forthwith but shall be paid subsistence allowance at the applicable rate from the date of his order or removal until today, and he shall not, get full salary for the said period inasmuch as the petitioner has not served since his removal, and in the meantime kept this matter pending for years."

17. Before us, it has been contended by the learned advocate for the C.S.T.C that having regard to the established principles of law that as regards quantum of punishment and sufficiency of evidence, when there is some evidence on record to support the findings of guilt, sitting in judicial review, the High Court in exercise of extraordinary writ jurisdiction is not supposed to act as an appellate forum - the impugned judgment and order, wherein it has been wrongly held that no part of the evidence was discussed by the enquiry officer in his report, cannot be sustained. He has cited the decisions given in the cases of Union of India (UOI) Vs. Parma Nanda, ; State of U.P. and others Vs. Nand Kishore Shukla and another, ; R.S. Saini Vs. State of Punjab and Others, and State of West Bengal and Ors. v. Nripendra Nath Biswas and Ors. 2001-I-LLJ-260 (Cal).

18. On the other hand, by taking us through the chargesheet, the depositions, the enquiry officer's report, and the written statement of defence, the learned counsel for the writ-petitioner has contended, before us, that the conclusion reached by the learned single Judge that the findings recorded in the enquiry report as well as the decision in the second show-cause notice were perverse - is just and proper. His further contention is that, in any event, in the context of the gravity of the so-called misconduct, the punishment imposed is bound to shock one's conscience. He has submitted that non-examination of the driver amounted to withholding of material witness, and by not allowing to cross-examine the witness, opportunity to defend was denied to the writ-petitioner. He has relied on the decisions given in the cases of Sadhan Chandra Aditya Petitioner Vs. State of West Bengal and Others, ; Vijay Bahadur Singh v. Union of India 1998 S.C.C. 787; Indian Oil Corporation Limited Vs. Panchanan Manna, and U.P. State Road Transport Corporation and Others Vs. Mahesh Kumar Mishra and Others, .

19. After hearing the parties, and considering the materials on record, the decisions cited at the Bar, and the established principles of law regarding the writ Court's power of judicial review of decision taken by an employer to punish his employee by way of a disciplinary action, we are of the considered view that the judgment and order impugned in this appeal cannot be sustained. Our reasons are, as recorded hereinafter.

20. The prosecution case and evidence was to the following effect:

On July 29, 2001 the writ-petitioner was on duty as conductor in WBS No. 1732 of route No. S-5. In the afternoon the bus reached L.20 stand at Esplanade. While passengers were debussing, TE-220(P. W. 1) who was on duty at L20 stand attended for gate checking. The writ-petitioner was in the bus. Being suspicious of the writ-petitioner's movement, TE-220(P.W.I) asked him to debus for a bag-check. Instead of debussing, the writ-petitioner took out a ten-rupee note from the cash-bag and tried to drop it inside the driver's cabin. TE-220 (P.W.I) at once embossed and caught hold of the writ-petitioner's right hand. However, by his left hand the writ-petitioner dropped the note in the driver's cabin. TE-220 (P.W. 1) picked it up and seized it. The bus went to the S-5 terminus. Since the writ-petitioner was not debussing for a bag-check, TE-220(P.W.I) called Starter-63(P.W.4) over for help. Starter-63(P.W.4) was on duty at Esplanade North Special terminus. On coming, Starter-63(P.W.4) found the writ-petitioner altercating with TE-220(P.W.I). Both TE-220(P.W.I) and Starter-63 (P.W.4) took the writ-petitioner to the Zonal Inspector (P.W.2), and narrated the incident. The Zonal Inspector (P.W.2) directed TE-214 (P.W.3) to carry a bag-check. A deficit of Rs. 3.20 was found on a sale of Rs. 315. The seized ten rupee note was deposited against receipt (Exhibit A). TE-213 recorded the bag- check report (Exhibit B). TE-220(P.W.I) submitted a report (Exhibit C).

21. In the writ-petitioner's written statement of defence, dated August 18, 1981 (Exhibit D), he made out a case to the following effect:

The charge of his dropping the ten rupee note was baseless and motivated. TE-220 (P.W.1) had embossed at Kankurgachi 3A bus stand. As the bus was very crowded, he had requested TE-220(PW.1) to help him in giving tickets and collecting fares. TE-220 (P.W. 1) declined to do so on the ground that he was not on duty. At L.20 bus stand, after all the passengers had debussed, he debussed. Behind him debussed TE-220(P. W. 1) While walking behind him, TE-220 (P.W.1) was complaining of the writ-petitioner's asking TE-220 (P.W. I), in front of all passengers, to distribute tickets and collect fares. TE- 220 (P.W. 1) also told the writ-petitioner that a ten rupee note had been found by him in the bus. The writ-petitioner requested TE-220 (P.W.1) to write in the writ-petitioner's way-bill about the said ten rupee note as lost property. TE-220(P.W. 1) asked the writ-petitioner to go with him to the Esplanade Head-Quarters. He so said on the plea that he was not on duty. At the Headquarters TE-220 (P. W. 1) talked to the Zonal Inspector (P. W.2). As per TE- 220's (P.W. 1) direction TE-214(P. W.3) carried a bag-check. At the time of bag-check the writ petitioner told that there

might be a cash deficit, as his bag had earlier fallen on the bus's footboard. The fact of accidental falling of his bag had already been informed by the writ-petitioner to the Lake-Town Starter (D.W.1) as well as to TE-220 (P.W.1).

22. The record shows that TE-220(P.W.1) gave direct evidence regarding the charge of the writ-petitioner's dropping the ten- rupee note with motive. He was cross-examined. Not a single question was put to him in cross-examination regarding the incident. No attempt was made by the writ-petitioner to cross-examine TE-220 (P.W. 1) in the line of the case, made out in his written statement of defence. Evidence of TE-220(P.W.1) was corroborated by the attendant facts and circumstances on which other prosecution witnesses gave direct evidence. On the other hand, besides submitting the written statement of defence, the writ-petitioner examined one witness to prove his case of the accidental fall of the cash-bag. He did not depose. He made no attempt to prove his case made out in the defence statement.

23. The learned single Judge held:

(a) that on the charge of dropping the ten rupee note excepting evidence of TE-220 there was no other evidence;

(b) that TE-220 travelled in the bus at least from L-20 stand to S-5 terminus and during that period besides TE-220 none of the other prosecution witnesses was present in the bus;

(c) that, accordingly, the fact of dropping the ten-rupee note became an assertion by TE-220 and denial by the writ-petitioner; and

(d) that, therefore, there was no acceptable evidence regarding the charge of dropping the ten-rupee note.

24. We are unable to agree with the learned single Judge that evidence of TE-220 (P.W.1) was not acceptable. In our view, merely because of the defence case made out in the writ- petitioner's written statement of defence, evidence of TE-220 (P.W.1) did not, and rather could not, become not acceptable evidence. We are of the opinion that oral evidence adduced by a witness in a disciplinary proceeding does not become not acceptable on the ground that the charged employee denies the truth or correctness of the facts asserted by such witness in his deposition. Opportunity to cross-examine is afforded for eliciting the truth. Charged employee is allowed to examine his defence witness to advance and prove his defence case. The standard of proof being preponderance of probabilities, the enquiry officer is to record his findings after assessing all evidence on record. The position of evidence on record being as pointed out above, in our view, it cannot be said that there was no acceptable evidence on record regarding charge of dropping of the ten rupee note by the writ-petitioner, with motive of causing deliberate deficit in the cash-bag, for evading imminent detection of excess cash.

25. The learned single Judge further held that the findings of guilt recorded by

the enquiry officer, without discussing the evidence and on the basis of the evidence considered, and having regard to the rules governing the cases of deficit in cash bag, were perverse.

26. That the enquiry officer recorded the findings without properly discussing the evidence on record, is, however not absolutely incorrect. His discussion of evidence of TE-220 (P.W.1), the main witness, was cursory and loose in nature. But then, by reading the report as a whole, we are unable to reach the conclusion that the findings are based on total non- discussion and non-consideration of the evidence on record. The writ-petitioner's defence was two fold : first, TE-220(P.W.1) had motivated made the false allegation of dropping of the ten rupee note; and secondly, the cash deficit resulted because of accidental falling of his cash bag. The enquiry officer found no reason for making false allegation by TE-220(P.W.1). He disbelieved defence witnesses's evidence regarding accidental falling of the writ-petitioner's cash bag. He rejected defence evidence by recording reasons. So, we do not think that in the facts and circumstances of the case the report falls in the category of a "bald report": warranting, nothing but setting aside.

27. In our opinion, non-discussion of the evidence on record in the report, does not render the findings of the enquiry officer perverse. Findings are perverse, when on consideration of the evidence on record, no person of reasonable prudence can reach the same. Non-discussion of the evidence, makes the findings non- speaking and unreasoned. Once findings are found to be perverse, exoneration follows: and there is no going back. On the contrary, the main consequence of non-speaking and unreasoned findings is: setting aside the report, with liberty to proceed, from the report preparation stage; exoneration from the charges is totally out of context.

28. Our view being as above, we are unable to agree with the learned single Judge that because of the rules allowing opportunity to make good the cash deficit, and the recording of findings without proper discussion of evidence on record, the enquiry report suffered from an incurable perversity; and hence liable to be quashed. However, the findings of guilt recorded in a report by the enquiry officer without adequate discussion, and without apparent consideration of the evidence on record, in our view, raises a justified question of its unsustainability, once the employee can show the resultant prejudice suffered by him. In this case, the writ-petitioner has not been able to show us as to, the dissuasive consideration of which non-discussed and non-considered evidence on record, had the potentiality of persuading the enquiry officer into reaching a probable conclusion of the writ-petitioner's innocence. Fact remains that, this was not his case, also in reply to the second show-cause notice. This is why, we do not find any reason to set aside the report, with liberty to repeat the exercise.

29. The learned single Judge also held that the second show-cause notice was the result of a perverse decision of the disciplinary authority. He held that for the cash deficit, which was only to be made good under the rules, in the back drop of

the evidence on record, the disciplinary authority, without at all applying his independent mind, decided to issue the second show-cause notice with the proposed punishment of removal from service, a perverse act.

30. For examining the question, whether the second show-cause notice was vitiated by total non-application of independent mind by the disciplinary authority; and whether in view of the evidence, and rules relating to the second charge, it was perverse we have perused the disciplinary authority's decision (reproduced hereinbefore) to issue the second show-cause notice. After going through the same we are unable to agree with the learned single Judge that it either lacks in application of disciplinary authority's independent mind, or it is perverse. He gave reasons for agreeing with the findings of the enquiry officer. He made a brief discussion of the evidence on record. With reasons he disbelieved the defence witness's evidence. He did not propose the punishment of removal for mere deficit detected in the cash bag. He found that the deficit had been caused with a dishonest intention. Considering the writ-petitioner's past misconduct, he proposed to impose the punishment of removal. We find no infirmity in the second show-cause notice. Therefore, on the question of validity of the second show-cause notice, also, we are unable to agree with the learned single Judge that the disciplinary authority's decision to issue the same was perverse.

31. It has been contended that without corroboration evidence of TE-220 (P. W. 1) was unreliable; and the findings of guilt based on his evidence was nothing but findings based on no evidence; evidence of P.Ws. 2,3 and 4, being hearsay, were not at all admissible. We hold that both the contentions are without any merit. There is no statutory or other requirement of seeking corroboration of a witness's evidence in a disciplinary proceeding. The standard of proof being preponderance of probabilities, uncorroborated evidence of a witness as well as hearsay evidence can be considered. However, in the present case it cannot be said that the evidence of TE-220 (P.W.I) was not corroborated by the other witnesses, or that evidence of the other witnesses were totally hearsay.

32. A feeble attempt has been made to say that opportunity to cross-examine the witnesses was not given. The records before us reveal that the opportunity was given and availed of. Grievance has been made that the driver was not examined. It is not the case that the writ-petitioner wanted to examine him and opportunity was denied. We find no merit in such submissions.

33. By referring to R.S. Saini case (supra) the learned counsel for the appellant has argued that if there is some evidence to reasonably support the conclusions of enquiring authority, and such conclusions have been drawn in a reasonable manner and objectively, the same cannot be termed as perverse or not based on any material. On the same proposition he has cited the Division Bench judgment of this Court (delivered by one of us, MATHUR, C.J.) in the case of Nripendra Nath Biswas (supra). The proposition, as it stands, is settled that: adequacy or even reliability of evidence recorded in departmental/disciplinary proceeding is

not a matter, which can be permitted to be canvassed before the Court in writ proceeding. By referring to the cases of Parma Nanda (supra) and Nand Kishore Shukla (supra), he has submitted that the question of imposition of punishment is entirely within the domain of the disciplinary authority.

34. On the other hand, all the four decisions have been cited by the learned counsel for the writ-petitioner in support of the proposition that cases of imposition of punishment, disproportionate to the gravity of the misconduct, and which shocks the very conscience of the Court, are not altogether immune from interference by the Writ Court, because of the parallel "domain" theory. Both the propositions, as we know, are established propositions.

35. In the facts and circumstances of the present case, we do not think that it warrants an interference by the Writ Court. In view of the job the writ-petitioner was assigned to perform, and the concomitant duty imposed on, and trust reposed in him, it does not seem to us that for the misconduct, considered with his past conduct, and the defence taken in the present case, the imposition of the punishment of removal from service is shockingly disproportionate. The decision in Mahesh Kumar case (supra), it appears to us, was given on the facts of that particular case; similar is the position in the other cases relied on. Needless to say that whether the punishment imposed is shockingly disproportionate is to be examined only on the given facts of a particular case. In the present case, we are satisfied that the punishment of removal is not shockingly disproportionate to the gravity of the misconduct proved.

36. For the foregoing reasons, we allow this appeal; set aside the impugned judgment and order, dated November 9, 2000; and dismiss the Writ Petition [C.O.No. 14358 (W) of 1981]. However, in the facts and circumstances of the case, there will be no order as to costs.

37. If urgent xerox certified copy of this judgment and order is applied for, the same may be made available to the parties upon compliance with all the formalities.

Ashok Kumar Mathur, C. J.

38. I agree.