
(1992) 05 PAT CK 0027
In the Patna High Court
Case No : C.W.J.C. No. 3853/1990

Kameshwar Singh

APPELLANT

Vs

Canara Bank

RESPONDENT

Date of Decision : 22-05-1992

Acts Referred:

Citation : (1992) 05 PAT CK 0027

Final Decision : Dismissed

Judgement

Aftab Alam, J.—The petitioner who at the material time was working as a Cashier with the respondent Bank got away with relatively mild punishment of stoppage of five increments with cumulative effect on the grave charge of extorting money from a number of poor borrowers for disbursing the small bank loans to them. Mr. Chandramauli Kumar Prasad, learned counsel for the petitioner, strongly argued that the punishment inflicted upon the petitioner was quite illegal and unsustainable as it was based on a domestic enquiry and its report made in complete violation of the principles of natural justice. Learned counsel urged the Court to disregard, at least for a while, the gravity of the charge and to examine the manner in which the charge was sought to be fastened upon the petitioner. He pointed out that the charge was held to be established against the petitioner on the basis of statements of the borrowers, made not in the course of the enquiry against the petitioner, but on other occasions and behind his back. The finding of the petitioner's guilt was, thus, arrived at by denying him any opportunity to cross-examine those whose allegations against him were considered and relied upon in the enquiry report,

2. Mr. Chitranjan Sinha, appearing for the respondent bank, contended that the finding recorded in the enquiry report was based on materials which were reliable and logically probative. He further submitted that in the facts and circumstances of this case, this management had produced before the enquiry the best materials available with it to establish the charge against the petitioner and it was the petitioner who had declined to cross-examine the management's

witness through whom the borrowers" statements were brought on record of the enquiry.

3. In order to appreciate the rival contentions, it will be necessary to have a brief look at the facts of the case. The petitioner, at the material time, was working as a Cashier at the G.B. Road, Gaya Branch of the respondent bank. A disciplinary proceeding was initiated against him on the basis of a charge sheet dated July 15, 1987. From the charge sheet, a photostat copy of which is at Annexure-1, it appears that from December 2 to 12, 1985, a loan disbursement camp was organised by the district authorities of Gaya in course of which 27 loans under the Integrated Rural Development Programme (I.R.D.P. Loans) were granted to various borrowers for the purchase of Cows, Buffaloes, Horses, and Carts etc. The loans were disbursed by one Shri Asrani (who was then acting as the Senior Manager of the Branch) with the assistance of the petitioner. The charge against the petitioner was that he coerced the borrowers into paying him illegal gratification. The modus operandi was simple but effective, he force the borrowers to accept lesser sums though signing the bank papers showing full payment of the sanctioned amounts on the threat that refusal or failure to comply with his demand would lead to the cancellation of the loan. The charge sheet cited the cases of five such borrowers; namely, Shri Devki Yadav, Shri Rajendra Ravidas, Shri Chowa Yadav, Shri Mahesh Ram and Shri Dayanand Pandey who were made to accept a lesser sum than what was the sanctioned amount by adopting this extortionist method.

4. At this stage, it may also be noted that a separate disciplinary proceeding was also initiated against Shri Asrani, the then Acting Senior Manager of the branch on the basis of a similar charge sheet. It may further be noted that in the departmental enquiry held against Shri Asrani all the five borrowers were examined as management witnesses. In their depositions (in the enquiry against Shri Asrani, the borrowers not only supported the charge against Shri Asrani up to the hilt but also brought to light the part played by this petitioner. On the basis of the enquiry a report was submitted holding Shri Asrani guilty of the charges; this was followed by an order of punishment against him.

5. Coming back to the petitioner's case, it is to be stated that following the charge-sheet a decision was taken to hold a departmental enquiry against the petitioner. For the proposed enquiry two officers of the bank, namely, Shri V.D. Bhat and Shri P.S. Chandra Shekhar were appointed as the Enquiring Officer and the Presenting Officer respectively. At this stage it is relevant to note that Shri P.S. Chandra Shekhar was also the Presenting Officer in the departmental enquiry held against Shri Asrani and had presented the management's case in that enquiry.

6. The enquiry against this petitioner appears to have run into difficulties at an early stage. In the initial list of witnesses submitted by the management, the five borrowers whose cases had been cited in the charge-sheet were named as management's witnesses. On two successive dates in the enquiry, however, no

witness could be examined on behalf of the management. Then, as the petitioner protested against the delay and insisted for closing the management's case, Shri Bhat gave in his resignation, expressing his inability to conduct the enquiry.

7. Thereafter the management issued another order replacing not only the Enquiring Officer but also the Presenting Officer. This time one Shri K. Muthukanan was named as the Enquiring Officer and Shri S.Ram as the Presenting Officer (the reason for changing the Presenting Officer would be apparent from the following developments.)

8. On the next date in the enquiry (January 30, 1988) an additional list of witnesses was submitted on behalf of the management, in this list Shri A.K.S. Rao and Shri. P.S. Chandra Shekhar (the previous Presenting Officer) were cited as management witnesses, Shri A.K.S. Rao was an officer of the bank who had conducted the preliminary investigations in the case before the formal charges were framed and served on the petitioner, Shri P.S. Chandra Shekhar had acted as the Presenting Officer in the departmental enquiry held against Shri Asrani.

9. On this date (January 30, 1988) Shri A.K. S. Rao was examined as M.W.1. His evidence in brief, he stated that he came to learn regarding irregularities in granting I.R.D.P. Loans by the officials of the Gaya Branch of the bank from the newspaper report while he was posted as Divisional Manager, Patna in 1988. In order to check up he first went to the Gaya Branch and finally to the village in question where he personally met the beneficiaries (borrowers). They complained to him that the bank officials had demanded money for granting and disbursing the loans. He took their statements and reduced them in writing in English. On each such statement he put his own signature and also obtained the L.T.I. signature of the respective borrower making the statement. These statements of the beneficiaries recorded by Shri Rao were produced and proved by him in course of the enquiry. These were taken on record as Material Ext. 1 to Material Ext. 5. Copies of Material Exts. 1 to 5 have been produced before me and I have perused them. The statement of one of the borrowers, namely, Devki Yadav is reproduced below as a specimen copy:

"I was granted loan for Buffalo, I purchased a buffalo for Rs. 2,800. I was compelled to pay in all Rs. 200 as bribe to Shri Kameshwar Singh in the presence of the Manager otherwise I was threatened that my loan would be cancelled. The vendor received Rs. 2,500 from the bank and the rest was paid by me."

M.W. I was also cross examined by the defence representative.

10. On the next date in the enquiry (February 27, 1988) Shri P.S. Chandra Shekhar was examined as management witness No. 2. His evidence is relatively more detailed. He stated that he was the Presenting Officer in the proceeding against Shri Asrani and in course of that enquiry he had examined the five borrowers as management witnesses. M.W. 2 in his statement gave the list and substance of the depositions made by the five borrowers in the enquiry against Shri. Asrani. In addition, he produced copies of the depositions of Shri. Dayanand

Pandey, Shri Mahesh Rai, Shri Chowa Yadav and Shri Rajendra Ravidas given by them in the enquiry against Shri Asrani and these depositions were 5 taken on record of this enquiry as Material Exts. 16 to 19. As regards the non-examination of the borrowers in the present enquiry, though they were examined in the proceeding against Shri. Asrani M.W. 2 gave the following explanations:

"Since similar charges were framed against Shri Kameshwar Singh, the same parties were called to depose in the enquiry in which I was the P.O. When I went to the village for calling them as witness to prove, they were afraid to call at the enquiry and make depositions. When I asked for the reason, they told that Mr. Kameshwar Singh had threatened them to the effect that in case they came forward to depose against him, they had to meet the consequences."

And Further:

"In the case of Shri Asrani there was an overwhelming response from villagers against a Manager who was an outsider. Again when I approached the villagers particularly to tender evidence against Shri. Kameshwar Singh, they were reluctant for obvious reason and more so Mr. Kameshwar Singh is a local person."

There was no cross-examination of M.W. 2 as the petitioner's representative refused to cross-examine this witness.

11. The enquiry report holding the petitioner guilty of the charge rests, to a considerable extent, upon the statements of the borrowers as contained in Material Exts. 1 to 5 and 16 to 19.

12. The statements of the borrowers as contained in Material Exts. 1 to 5 and 16 to 19 have been produced before me and I have perused the same. If these statements are to be taken into consideration then there remains little doubt of the petitioner's guilt. I may add here that even if these two sets of material exhibits are not taken together but are taken separately into consideration, each of these two sets (either Material Exts. 1 to 5 or Material Exts. 16 to 19) in itself is sufficient to establish the charge against the petitioner. The question, however, is whether these statements are legally admissible and whether they can be looked into in a departmental enquiry to determine the petitioner's guilt.

13. Mr. Chandramauli Kumar Prasad strongly contended that no finding of guilt could be based on these statements. He said that the enquiring officer ought not to have relied on them at all. These statements ought not to have been taken into consideration because they were hearsay. No opportunity was given to the petitioner to test those statements by cross-examination and their admission on record was objected to. Counsel said that in these circumstances it was contrary to natural justice for these statements to form the basis of the finding of guilt. In all fairness to Mr. Prasad, it must be recorded that he admitted that in a departmental enquiry of this kind a hearsay evidence was not completely inadmissible but he took a stand that it could only be of corroborative value and no finding of guilt could be based on such evidence. In support of his contention,

learned counsel relied upon decisions reported in (i) Union of India (UOI) Vs. T.R. Varma, (ii) Central Bank of India Ltd. Vs. Prakash Chand Jain, and (iii) Management of Municipal Corporation of Delhi Vs. The Presiding Officer, Labour Court and Others,

14. On other hand, Mr. Sinha appearing for the bank argued that hearsay was no anathema to a departmental proceeding and in a given case such as the present one a finding of guilt could be validly sustained on the basis of materials that may not be admissible under the Indian Evidence Act. Counsel submitted that it was in the course of his duties that Shri Rao (M.W.I) had met and recorded the statements of the borrowers. Similarly Shri Chandra Shekhar had got the borrowers examined as management's witness in the enquiry against Shri Asrani in which he was acting as the Presenting Officer (in the discharge of his duties). Both of them were responsible officers in the bank. They did not carry any animus against the petitioner and had no reason to depose falsely against him. Both these witnesses were completely reliable persons and so were the statements of borrowers which were brought before the enquiry through them.

15. Mr. Sinha submitted that in the present case the management of the bank had done everything within its power to bring all the materials before the enquiry. He pointed out that the bank performed a public utility service and an offence of the kind of this case was one of the surest ways to undermine the banking service. He also stated that it was common experience that a member of public though having suffered at the hands of an employee of the bank did not always come forward, for various reasons, to formally give his statement against the offending employee. Counsel contended that in these circumstances a rigid and inflexible rule that the victim, though a member of the public and, therefore, beyond the control of the bank, must be personally examined to establish the charge against the employee facing departmental proceeding, would put the bank in a completely helpless position and would amount to giving licence to the delinquent employee to victimise people with impunity.

16. Mr. Sinha further submitted that in the facts of this case the petitioner's insistence for the personal examination of the borrowers was particularly misconceived. For, in this case the management had given cogent reason before the enquiry for their non-examination. He laid great stress on the fact that the petitioner had not cared to cross-examine M.W. 2. He pointed out that the evidence of M.W. 2 concerning the reason for the non-examination of the borrowers was not hearsay but primary evidence, The petitioner by choosing not to cross-examine M.W.2 even on this aspect of his evidence had practically accepted the reason given by the management for the non-examination of the borrowers which was that the borrowers had been won over and influenced by the petitioner who was a "local person". Hence it was no longer open to the petitioner to raise any objection regarding the recorded statements of the borrowers being taken into consideration against him.

17. Mr. Sinha in support of his contention also relied upon a number of decisions.

These are (i) 1968 2 ALLER 633 (ii) 1977 (1) SLR 750 (iii) (1981) 2 SCC 716 (iv) 1982 LIC 61 (v) 1963 I LLJ 734 and (vi) 1988 PUR 145

18. In all the decisions cited either on behalf of the petitioner or against him, there is hardly any disagreement on the law governing the departmental proceedings. Questions touching upon the procedure that an administrative authority is obliged to follow and the nature of evidence that is admissible and materials that can be taken into consideration in a departmental proceeding are answered by more or less the same broad legal propositions. The only difference in approach in these decisions is discernible in the application of the very same proposition to the given set of facts of a particular case. In the eloquent words of Krishna Iyer, J, "We may make it clear, right at the beginning, that the law that is applicable is not in dispute but the facts and circumstances of cases may differ when the application of law is called for." (vide 1977 (1) SLR 750). Keeping this in mind I propose to examine each of the aforementioned decisions to find out which of the decisions stand closest to the case in hand in its essential features (relating to facts and circumstances) so as to serve as the best precedent to be followed. I propose to take up first the cases cited on behalf of the petitioner.

19. Mr. Chandramauli Kumar Prasad, appearing on behalf of the petitioner relied upon the following passage from a Supreme Court decision in the case of Union of India (UOI) Vs. T.R. Varma, :

"Stating it broadly and without intending it to be exhaustive, it may be observed that rules of natural justice require that a party should have the opportunity of adducing all relevant evidence on which he relies, that the evidence of the opponent should be taken in his presence, and that he should be given the opportunity of cross-examining the witnesses examined by a party and that no material should be relied on against him without his being given an opportunity of explaining that."

A look on the facts of this case, however, reveals that the main question to be decided in this case was whether the employee facing the charge was prevented from cross-examining the witnesses who gave evidence in support of the charge and, therefore, whether he was denied a reasonable opportunity to present his case. The Supreme Court on an examination of the materials came to the conclusion that it was a fact that there was no cross-examination of witnesses, but from this it could not be inferred that the request of the respondent employee to cross-examine the witnesses was disallowed. On a consideration of the record and all the probabilities the Court accepted the statement of the enquiry officer and held that the respondent was not refused permission to cross examine witnesses and the charge that the enquiry was defective for this reason could not be sustained.

20. it is also important to note that in this case the validity of the enquiry proceeding was also questioned on the ground that the charged employee was not allowed to make any statement setting forth the defence version but was

only cross-examined by the Enquiring Officer; i similarly his witnesses were also not allowed to make any statements of their own or in examination in-chief at the instance of the charged employee but were only cross-examined by the Enquiring Officer. It was in this back ground that the Supreme Court made the observation which has been cited and relied upon by Mr. Prasad. It is, however, important to see that even these criticisms did not persuade the Supreme Court to hold the enquiry defective. The Supreme Court held that the enquiry was proper and accordingly allowed the appeal preferred by the Union of India and reversed the judgment of the High Court which had quashed the dismissal order holding the enquiry to be defective. I do not see how this judgment can be of any help to the petitioner.

21. Mr. Prasad also relied upon the following passage from the decision of the Supreme Court in the case of Central Bank of India Ltd., v. Shri Prakash Chand Jain 1969 II LLJ 7 at 382:

"The principle that a fact sought to be proved must be supported by statements made in the presence of the persons against whom enquiry is held and that statements made behind the back of the person charged are not to be treated as substantive evidence, is one of the basic principles which cannot be ignored on the mere ground that domestic tribunals are not bound by the technical rules of procedure contained in the Evidence Act."

In this case respondent Prakash Chand Jain was an employee of the Central bank who faced an enquiry on certain charges. The facts that were required to be proved against him were:

"(a) that on January 14, 1960 a sum of Rs. 30400 was paid to him by the Assistant Cashier Nand Kishore; and

(b) that he (Jain) left for Muzaffarnagar in company of some persons to retire the bills by M/s. Gupta Iron Industries."

22. In the departmental enquiry these facts were sought to be established by the evidence of the internal auditor N.N. Muzifdar but he could not give any direct evidence as he was not present at the time when money was paid to the respondent or when the respondent left for Muzaffarnagar. He purported to prove these allegations by deposing that a statement was made to him by Nand Kishore to the effect that Nand Kishore had paid Rs. 30400 to the respondent left and that thereafter the respondent for Muzaffarnagar in the company of two persons. The enquiry officer accepted this evidence. The tribunal held that the conclusions recorded by the enquiry officer were perverse as these findings were based on hearsay evidence. The Supreme Court approved and upheld the tribunal's view making the observations as quoted above.

23. The distinctive feature in this case, however, was that Nand Kishore, whose evidence could be the substantive evidence of the charges in question, was also examined as a witness before the enquiry officer. He did not say that a sum of

Rs. 30400 was paid to him by Prakash Chand Jain or that he left for Muzaffarnagar in the company of some persons. In fact Nand Kishore went further and denied that he had made any statement to Wazifdar as stated by Wazifdar. It was only in this background that the Supreme Court held that the statements made by Nand Kishore to Wazifdar could not become substantive evidence to prove the correctness of these allegations and form part of the charge. Thus, I find that this case clearly differs from the present case on facts.

24. The following passage from the decision of a Division Bench of the Delhi High Court in the case of the Management of Municipal Corporation of Delhi Vs. The Presiding Officer, Labour Court and Others, was also cited by Mr. Prasad:

" It was expressly pointed out that when a fact is sought to be proved even before a domestic tribunal, it must be supported by statement made in presence of the persons against whom an enquiry is held and if that statement is made behind the back of the person charged it ought not to be treated as substantive evidence; this is one of the basic principles which cannot be ignored on the mere ground that the domestic tribunals are not bound by the technical rules of procedure contained in the Evidence Act."

These observations were made on the basis of Union of India (UOI) Vs. T.R. Varma, and Central Bank of India Ltd. Vs. Prakash Chand Jain, From the facts of this case also it appears that the delinquent workmen were charged for assaulting their superior officer. In the departmental enquiry, however, Shri. Bharadwaj, the person assaulted did not appear to give his evidence and the charge was sought to be proved by other witnesses who claimed to have learned regarding the identification of the assailants from Sri. Bharadwaj. It was in this background that the court observed that the truth of the allegation could be proved only by examining Bharadwaj and the hearsay evidence of the others was only corroborative.

25. The distinctive feature of this case is that Bharadwaj who worked under the same employer was not examined without assigning any reason, though he was the primary witness of assault on him.

26. I am of the opinion that the essential features of the case in hand are quite different from the cases cited above and none of the three decisions can, therefore, serve as a useful precedent for deciding the present case.

27. Now a look at the decision relied by Mr. Sinha appearing for the respondent Bank.

28. Mr. Singh Placed reliance on the case of T.A. Miller, Ltd, v. Minister of Housing and Local Government (1968) 2 ALLER 633 In this case, the appellants who had bought the land from a previous owner were served with an enforcement notice issued by the Rural District Council on the ground that there had been a material change in the use of the land for which planning permission had not been obtained. The Inspector who held the enquiry received evidence of witnesses on

oath. He admitted also in evidence a letter written by the previous owner. The author of the letter did not attend enquiry and the letter was not verified on oath. The Inspector relied on the contents of this letter and in his report found that there had been development of the land during the relevant period. The appellants appealed to the Minister who dismissed their appeal. When the matter came to the Court of Appeal, Lord Denning dismissed the appeal holding as follows:

"The Inspector relied on Mr. Fogwill's letter. So did the Minister in his decision. Counsel for the appellants said that they ought not to have relied on it at all. It ought not even to have been admitted because it was hearsay. It was not on oath, no opportunity was given to test it by cross-examination, and it was objected to. Counsel said that in these circumstances it was contrary to natural justice for it to be admitted.

In my opinion this point is not well founded. A tribunal of this kind is master of its own procedure provided that the rules of natural justice are applied. Most of the evidence heard was on oath, but that is no reason why hearsay should not be admitted where it can be fairly regarded as reliable. Tribunal are entitled to act on any material which is logically probative even though it is not evidence in the Court of law."

The next case on which Mr. Sinha strongly relied is the case of State of Haryana and Anr. v. Ratan Singh 1977 1 SLR 750. This case relates to a Conductor of the Haryana Roadways Bus. His running bus was checked by the flying squad and the Inspector discovered that four passengers had earlier alighted without tickets and that eleven passengers travelling in the bus did not have tickets although they claimed to have paid the fare to the Conductor. The Inspector submitted a report on the basis of which the Conductor was chargesheeted and a domestic enquiry was held in which his guilt was established, following this his services were terminated. The Conductor went to the Court and three Courts successively held in his favour on the principal ground that none of the eleven passengers had been examined at the domestic enquiry. The second ground was that there was a departmental instruction that checking Inspector should record the statements of passengers which was not done in this case, the Supreme Court reversed the judgments of the three Courts below including the High Court holding as follows:

"It is well settled that in a domestic enquiry the strict and sophisticated rules of evidence under the Indian Evidence Act may not apply. All materials which are logically probative for a prudent mind are permissible. There is no allergy to hearsay evidence provided it has reasonable nexus and credibility. It is true that departmental authorities and administrative tribunals must be careful in evaluating such material and should not glibly swallow what is strictly speaking not relevant under the Indian Evidence Act.

For this proposition it is not necessary to cite decision nor text books, although we have been taken through case law and other authorities by counsel on both

sides. The essence of a judicial approach is objectivity, exclusion of extraneous materials or considerations and observance of rules of natural justice. Of course, fair play is the basis and if perversity or arbitrariness, bias or surrender of independence of judgment vitiate the conclusions reached, such finding even though of a domestic tribunal, cannot be held good. However, the courts below misdirected themselves, perhaps in insisting that passengers who had come in and gone out should be chased and brought before the tribunal before a valid finding could be recorded. The residuum rule to which counsel for the respondent referred, based upon certain passages for American Jurisprudence does not go to that extent nor does the passage from Halsbury insist on such rigid requirement. The simple point is, was there some evidence or was there no evidence, not in the sense of the technical rules governing regular court proceedings but in a fair common sense way as men of understanding and worldly wisdom will accept. Viewed in this way, sufficiency of evidence in proof of the finding by a domestic tribunal is beyond scrutiny. Absence of any evidence in support of a finding is certainly available for the court to look into because it amounts to an error of law apparent on the record. We find, in this case, that the evidence of Chamanlal, Inspector of the flying squad, is some evidence which has relevance to the charge levelled against the respondent. Therefore we are unable to hold that the order is invalid on that ground."

29. Mr. Sinha also relied on the case of Balvir Kumar Arya v. Rajasthan State Road Transport Corporation 1982 LIC 61 In this case on similar facts a learned single Judge of Rajasthan High Court held as follows:

"Mr. Sharma further argued in the context of his first contention that there is no evidence on the record of domestic enquiry to support the finding that the appellant had realised fare from three passengers without issuing tickets to them. This argument is also not convincing. The lower appellate court has pointed out that there is both oral and documentary evidence to prove that the appellant had realised the fare from three passengers without issuing tickets to them. It may be right away pointed out that technical rules of evidence, like the best evidence rule, enacted in the Evidence Act are not applicable to domestic enquiries. It was permissible to the enquiring officer to rely on the statement of the checking staff that the passengers had told them that they had paid the fare to the appellant and that he had not issued any ticket to them. Of course, it would have been much better if the Inquiring Officer had insisted on the production of at least one of such passengers who had paid the fare as witness in inquiry. That does not, however, mean that if, in the facts and circumstances of this case, he felt satisfied on the statement of a member of the checking staff that the appellant had committed the dishonest act of charging fare from three passengers without issuing tickets to any of them, this finding in that behalf is necessarily vitiated merely because none of the passengers concerned was examined as witness in the enquiry."

30. Mr. Sinha also relied upon the cases of (i) Maharashtra State Board of

Secondary and Higher Secondary Education Vs. K.S. Gandhi and Others, (ii) Fort William Jute Mills Company Ltd. v First Labour Court and another 1963 I LLJ 734 and (iii) Instrumentation Ltd. Vs. Presiding Officer, Labour Court and Another,

31. I have given anxious consideration to the question as to which of the decisions apply more closely to the facts and circumstances of the case in hand. I am of the considered opinion that the line of decisions relied on by Mr. Sinha more closely resembles the salient features of this case. I may enumerate here what I consider the salient features of this case. These are as follows:

(i) The substantive evidence in relation to the charge was available only with the borrowers and other persons who not being in the employment of the bank were not under its control and the bank was not in a position to compel their appearance in the department proceeding

(ii) The bank made an effort to get the borrowers examined as witness in the enquiry (vide M.W. 2)

(iii) It was established from the evidence of M.W. 2 (not cross-examined on behalf of the petitioner) that it was the petitioner who was behind the borrowers' refusal to come and depose against him in the enquiry.

(iv) Under the circumstances the bank took the only possible course of action and brought before the enquiry the statements of these borrowers recorded at earlier occasions.

(v) Persons who had recorded the statements of the borrowers and who produced the same before the enquiry had no apparent motive to falsely indict the petitioner.

32. For the reasons stated above, I am of the opinion that the question arising in the facts and circumstances of this case can be answered in the light of the decisions relied on by the respondents; particularly, the Supreme Court decision in 1977 S.L.R. 750 which laid down that the charge against the bus conductor could be upheld only on the verbal statement of the Checking Inspector, though none of the eleven passengers were examined and even though the Inspector had not taken down the passengers' statements in writing.

33. I accordingly find and hold that there was no infirmity in the departmental proceeding and neither the enquiry report nor the punishment awarded to the petitioner on the basis thereof calls for any interference by this Court.

34. I thus find no merit in this application. This application is dismissed but with no order as to costs.