

Supreme Court on Disciplinary Punishment: Misconduct May Be Proved, but Dismissal May Still Not Be Justified

In *Surekha Domaji Bele v. Executive Engineer, Testing Division, MSEDCL*¹, the Supreme Court reiterated that the finding of misconduct and the determination of the appropriate punishment are two distinct exercises in disciplinary proceedings.

The employee remained under suspension for nearly 11 years before being dismissed. After the original domestic enquiry was found defective, the employer was permitted to prove the misconduct by leading evidence before the Labour Court. The Labour Court ultimately held that the misconduct stood proved.

The Supreme Court left that finding undisturbed. It nevertheless set aside the dismissal.

The disciplinary authority had relied substantially on an earlier show-cause notice issued on the basis of the defective domestic enquiry. Once the misconduct was established through the post-remand proceedings before the Labour Court, the authority was required to independently consider the findings that survived and determine the appropriate punishment. In the circumstances, a fresh show-cause notice on the proposed penalty was necessary.

The Court also held that dismissal was wholly disproportionate. Before imposing the severest penalty, the disciplinary authority was required to consider:

- The nature and gravity of the misconduct.
- The employee's length of service and past record.
- The employee's age.
- The presence or absence of financial loss or dishonesty.
- Whether a lesser penalty would meet the ends of justice.

The judgment also addresses two significant aspects of suspension:

- **Suspension pending enquiry is not, by itself, punishment.**

The Court distinguished suspension as an interim measure from suspension imposed as a substantive disciplinary penalty. It held that the employee could not be subjected to dismissal and, additionally, have the entire period of suspension treated as a separate punishment for the same misconduct.

- **Subsistence allowance is not merely a monetary benefit.**

Subsistence allowance enables a suspended employee to meet basic needs and effectively defend disciplinary proceedings. In the absence of a valid review continuing the suspension beyond six months, the employee was held eligible for subsistence allowance for the period after the initial six months.

ELP Comments

Disciplinary proceedings do not end with proof of misconduct. The decision on punishment requires a separate and independent application of mind, compliance with procedural safeguards, and a reasoned assessment of proportionality and mitigating circumstances.

Proof of misconduct does not, by itself, justify the ultimate penalty of dismissal.

We hope you have found this information useful. For any queries/clarifications, please write to us at insights@elp-in.com or write to our authors:

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