
MISCONDUCT AS A GROUND FOR DISMISSAL OF WORKMEN UNDER INDIAN LABOUR LAW: A JUDICIAL ANALYSIS

Shambhavi Kumari, Bharti Vidyapeeth New Law College, Pune

ABSTRACT

Discipline at the workplace plays an important role in maintaining a healthy relationship between employers and workers. Under Indian labour law, an employer has the right to take action against a workman for misconduct, including dismissal in serious cases. However, this power cannot be used arbitrarily and must be exercised according to the law. This article discusses misconduct as a ground for dismissal of workmen and explains the legal principles that govern such action. It examines different types of misconduct that courts have considered serious enough to justify dismissal, such as participation in illegal strikes, making defamatory statements against the employer, using abusive language, creating disturbances at the workplace, and habitual absenteeism. The article also analyses important judicial decisions that have helped shape the law on this subject. In addition, it explains the difference between dismissal for misconduct and termination due to unsatisfactory performance during probation. The article concludes that dismissal is legally valid only when the misconduct is properly proved, a fair enquiry is conducted, and the punishment is proportionate to the seriousness of the act. In this way, Indian labour law seeks to maintain workplace discipline while also protecting the rights of workmen.

Keywords: Misconduct, Dismissal of Workmen, Labour Law, Industrial Disputes Act, Workplace Discipline, Natural Justice, Domestic Enquiry.

Introduction

In India, the industrial sector coexists with a diverse workforce. Workplace discipline forms the foundation of a healthy employer-employee relationship. The relationship between workmen and employers is not always harmonious, and disputes between them are common. To resolve such disputes, it is vital that employees, employers, and legal practitioners are well-versed in the relevant legal framework. This article provides an in-depth analysis of when a workman may be dismissed from service on the grounds of misconduct.

The question is not whether misconduct can lead to the termination of a workman; the real question is what specific categories of misconduct possess the legal gravity to justify the ultimate punishment of dismissal. This article examines the precise circumstances and judicial boundaries under which an employer may validly dismiss a workman for acts of indiscipline.

Misconduct

The term "misconduct" has not been specifically defined under the Industrial Disputes Act, 1947¹. However, its meaning and scope are firmly established through standing orders, service rules, and extensive judicial interpretation. In broad terms, misconduct refers to any act of indiscipline, improper conduct, or unacceptable behavior by a workman within the workplace.

Standard categories of misconduct are statutorily anchored and codified under the Schedule of the Industrial Employment (Standing Orders) Act, 1946². There can be various forms of misconduct committed by a workman, but not every infraction results in a valid dismissal from service. Minor acts of indiscipline may attract lesser penalties such as warnings, censures, or fine collections. Conversely, severe acts of misconduct directly damage workplace cohesion and industrial harmony, thereby justifying immediate dismissal. Such grave actions include participating in an illegal strike, publishing defamatory statements against the management, verbal abuse, intentional disruption, or habitual absenteeism.

The Conceptual Foundations of Misconduct

To understand why certain behaviors justify dismissal, Indian labour jurisprudence splits

¹ *The Industrial Disputes Act, 1947 (Act 14 of 1947)*

² *The Industrial Employment (Standing Orders) Act, 1946 (Act 20 of 1946).*

industrial misconduct into two broad legal categories:

- **Breach of Express or Implied Terms of Service:** This occurs when a workman directly violates explicit provisions laid down in the Certified Standing Orders, service rules, or the employment contract (e.g., executing a strike without notice).
- **Acts Subversive of Discipline:** This encompasses actions that destroy the implied covenant of trust and confidence between an employer and employee. Courts have consistently held that even if a specific behavior is not explicitly itemized in an employer's handbook, any conduct that fundamentally threatens workplace peace, safety, or operational hierarchy can be legally treated as gross misconduct justifying termination.

Legal Framework Governing Dismissal of Workmen

The dismissal of a workman is guided by an intersection of statutory labour laws, individual corporate service rules, certified standing orders, and overriding constitutional principles. Employers hold a powerful disciplinary tool in the mechanism of dismissal; because it fundamentally terminates a workman's livelihood, its exercise is strictly monitored by courts.

The primary legislation governing these outcomes is the **Industrial Disputes Act, 1947**, which establishes statutory definitions for dispute resolution and outlines legal remedies for wrongfully terminated workmen. Concurrently, the **Industrial Employment (Standing Orders) Act, 1946** mandates that industrial establishments clearly formulate and display conditions of employment, explicitly detailing which acts constitute misconduct and what penalties apply.

Apart from statutory requirements, courts in India have repeatedly held that any disciplinary action must strictly respect the **principles of natural justice**. Before an employee can be validly dismissed, the employer must conduct a fair domestic enquiry, communicate a precise charge sheet, and provide a reasonable opportunity for the workman to present their defense. If an enquiry violates basic procedural fairness, the subsequent dismissal order will be treated as illegal and invalid.

Types of Misconduct Leading to Dismissal of Workmen

The valid dismissal of a workman depends heavily on the specific nature, context, and proof

of the alleged offense. Through landmark decisions, Indian courts have recognized several distinct categories of misconduct that warrant termination.

1. Participating in an Illegal Strike

The right to strike is a recognized weapon given to workmen to voice collective dissatisfaction or enforce legitimate demands. However, participation in an illegal strike constitutes a serious act of misconduct under applicable standing orders and service rules. The Industrial Disputes Act, 1947 lays down strict mandatory conditions that workmen must follow before executing a strike. Sections 22 and 23 place explicit restrictions on strikes in public utility and general industrial setups, while Section 24 explains exactly when a strike will be deemed illegal. If a strike is carried out in absolute violation of these provisions, it lacks legal protection.

- **Why it is Misconduct:** A strike is not an absolute right; it is a conditional statutory weapon. When workmen execute an illegal strike, they commit a dual infraction: they commit a breach of explicit statutory procedures (Sections 22 and 23 of the ID Act) and simultaneously inflict economic injury on the employer through a deliberate cessation of work without warning. This paralyzes industrial operations and threatens public utility services, which completely undermines the core objective of industrial peace.

The Supreme Court evaluated this in *Lakshmi Devi Sugar Mills Ltd. v. Ram Sarup*³, where 76 workmen of a sugar mill engaged in a sudden tools-down strike. The Court found that the workmen had failed to provide the mandatory statutory notice under Section 22(1) of the Industrial Disputes Act, 1947, rendering the strike illegal. Crucially, the Court observed that the short duration of the strike (from 7:00 a.m. to 10:30 a.m.) did not remove its illegal character, as it had been planned in advance and initiated in deliberate violation of statutory procedure.

Furthermore, the Court held that the management was justified in suspending the workmen pending an enquiry, especially since the strikers had forcibly entered the sections and behaved in a threatening manner. The Supreme Court emphasized that once an employer conducts a fair domestic enquiry and reaches a bona fide conclusion regarding misconduct and insubordination, the employer is fully entitled to seek permission to dismiss the guilty

³ *Lakshmi Devi Sugar Mills Ltd. v. Ram Sarup*, AIR 1957 SC 82.

workmen.

The apex court re-examined this issue in *Kalindi and Ors. v. Tata Locomotive & Engineering Co. Ltd.*⁴. In this case, the workmen were charged with participating in an illegal strike, abandoning their assigned duties, inciting fellow employees to halt operations, and threatening non-striking workers. The Supreme Court upheld the dismissal orders, affirming that participation in an illegal strike coupled with intimidation is a major act of misconduct. This judgment reinforces the principle that where an illegal strike and accompanying acts of indiscipline are proven via a fair domestic enquiry, dismissal is justified, provided the principles of natural justice are strictly observed.

2. Defamation Against the Organisation

While workmen possess the fundamental right to freedom of speech and expression, this right is circumscribed by the duties of employment. Legal frameworks distinguish between the legitimate, internal expression of genuine grievances and malicious, public smear campaigns designed to defame management.

- **Why it is Misconduct:** Freedom of speech under Article 19(1)(a) does not grant an employee immunity to engage in malicious public defamation against their employer. Employment creates a legal duty of loyalty and preservation of organizational reputation. When an employee publishes defamatory statements outside the company's internal grievance channels, it reduces public confidence in the enterprise, targets its commercial survival, and destroys internal workplace cohesion.

In *M.H. Devendrappa v. The Karnataka State Small Industries Development Corporation*⁵, the Supreme Court evaluated the boundaries of an employee's speech. The appellant, acting as an employee union president, wrote directly to the Governor of Karnataka alleging systemic corruption, nepotism, and financial mismanagement within the corporation, and subsequently published a derogatory statement in a daily newspaper targeting the Chairman. The Supreme Court upheld his dismissal under Rule 22 of the Corporation's Service Rules, ruling that entering employment carries an implicit obligation to maintain organizational discipline and protect the prestige of the employer. The Court emphasized that direct public attacks against

⁴ *Kalindi and Ors. v. Tata Locomotive & Engineering Co. Ltd.*, AIR 1960 SC 914.

⁵ *M.H. Devendrappa v. Karnataka State Small Industries Development Corporation*, AIR 1998 SC 1064.

the head of an establishment undermine operational hierarchy and lower the public reputation of the entity, removing such actions from the protective scope of fundamental constitutional freedoms.

A similar standard was applied in *Mysore Lamp Works Workmen v. Management of Mysore Lamp Works*⁶. In this instance, an employee published a printed pamphlet addressed to the Chief Minister containing severe allegations that the management was intentionally running the company into losses. The management proved that these statements were false, unauthorized, and directly harmed the market reputation and prestige of the corporate products. The Court held that publishing false and defamatory statements against the employer was a grave act of misconduct subversive of workplace discipline, thereby validating the disciplinary penalty of dismissal.

3. Abusive Language

The use of indecent, vulgar, and filthy language by a workman against the management or co-workers constitutes a serious breach of industrial discipline and serves as a valid ground for dismissal. Industrial harmony requires a baseline of mutual respect; consequently, courts view unprovoked verbal abuse as an insubordinate act subversive of workplace order.

- **Why it is Misconduct:** Verbal abuse is categorized as an act directly subversive of discipline. A workplace cannot function productively if management authorities or peers are exposed to targeted humiliation, profanity, or insult. It destroys operational hierarchy, breeds insubordination, and disrupts psychological safety within the factory or office floor.

The legal standard on this issue was articulated by the Supreme Court in *Orissa Cement Ltd. v. Adikanda Sahu*⁷. In this case, a fitter entered the time office and twice targeted a labour officer with vulgar, abusive language without provocation. The lower tribunals denied the employer permission to dismiss the workman under Section 33 of the Industrial Disputes Act, citing his youth and a tendered apology as mitigating factors. The Supreme Court reversed this decision, clarifying two vital principles. First, it held that an employer is not bound to retain an individual capable of such indecent conduct. Second, it rejected the lower tribunals' reliance

⁶ *Mysore Lamp Works Workmen v. Management of Mysore Lamp Works*, AIR 1971 Mys 53.

⁷ *Orissa Cement Ltd. v. Adikanda Sahu*, (1960) 1 LLJ 518 (SC).

on the workman's apology, noting that the expression of regret was conditional upon the officer "feeling offended" rather than being an unconditional admission of wrongdoing. The ruling firmly establishes that verified verbal abuse directed at superiors is a major misconduct justifying termination.

4. Creating Nuisance

To ensure the smooth functioning of an industrial establishment, maintaining order inside the workplace premises is essential. Creating a public nuisance, staging disorderly demonstrations, or engaging in workplace intimidation amounts to serious misconduct. In labour jurisprudence, a nuisance is not a minor inconvenience; it encompasses acts such as threatening co-workers, trapping officers, disrupting administrative functions, and cultivating an environment of fear.

- **Why it is Misconduct:** Creating a nuisance directly compromises the physical and operational integrity of the industry. Staging threatening demonstrations or aggressively entering office buildings shifts the workplace environment from a site of economic production to a site of hostility and fear. It prevents managers and co-workers from safely discharging their designated duties, which violates the employer's absolute right to safely manage property and enterprise.

This was illustrated in *Mahendra Nissan Allwyns Ltd. v. M.P. Siddappa*⁸, where a workman led a turbulent group of employees into the corporate administrative building, forcibly entered executive offices, and directly threatened the Deputy General Manager. The Supreme Court upheld the punishment of dismissal, ruling that behavior involving physical threats, intimidation, and the forced disruption of office work can never be treated as a minor misdemeanor. The ruling confirmed that when a workman creates a structural nuisance that paralyzes an employer's operations, dismissal is the appropriate legal consequence.

5. Habitual Absenteeism

Habitual absenteeism refers to the persistent, repeated absence of an employee from work without prior authorization or valid justification. Regular attendance is an essential element of the employment contract, and persistent unannounced absences disrupt operational

⁸ *Mahendra Nissan Allwyns Ltd. v. M.P. Siddappa*, (2000) 1 SCC 324.

productivity and overload the remaining workforce.

- **Why it is Misconduct:** Continuous, unauthorized absence strikes at the core consideration of the contract of service: the availability of labour. An industry functions as an interconnected machine; when a worker repeatedly drops out without warning or permission, production pipelines break down, output diminishes, and an unfair workload is pushed onto remaining staff. It indicates a chronic neglect of duty and a fundamental lack of interest in the employment contract itself.

In *Delhi Transport Corporation v. Sardar Singh*⁹, employees remained absent for extensive periods without obtaining prior sanctioned leave or presenting medical justification. The Supreme Court upheld their termination, observing that repeated unauthorized absence exhibits a total lack of interest in the assigned work and amounts to a fundamental breach of workplace discipline. The Court held that if an employee fails to provide a verifiable, bona fide explanation for persistent absences, the employer is justified in concluding that the employee has abandoned their duties, making dismissal legally sound.

Similarly, in *Burn & Co. Ltd. v. Their Workmen*¹⁰, a workman who was a prominent union leader repeatedly absented himself without submitting proper leave applications. The Supreme Court explicitly held that no employee, irrespective of their trade union status or leadership position, can claim total immunity from standard operational regulations. The Court confirmed that unauthorized habitual absence is a major breach of workplace rules that completely justifies termination.

Termination Based on Unsuitability During Probation

It is important to legally separate termination due to misconduct from termination due to unsuitability. While the former requires a formal domestic enquiry into specific wrongdoings, the latter is a non-stigmatic administrative separation based on performance.

In *Chaitanya Prakash v. H. Omkarappa*¹¹, a probationary employee's performance was found to be highly unsatisfactory despite the management giving him multiple opportunities and written guidance to improve. At the end of the probationary timeline, the employer reviewed

⁹ *Delhi Transport Corporation v. Sardar Singh*, AIR 2004 SC 4761.

¹⁰ *Burn & Co. Ltd. v. Their Workmen*, AIR 1959 SC 529.

¹¹ *Chaitanya Prakash v. H. Omkarappa*, (2010) 2 SCC 623.

his overall output, found him unsuitable for confirmation, and terminated his contract. The Supreme Court upheld the termination, confirming that it was an evaluation of unsuitability and poor performance, not a punitive action for misconduct. The Court emphasized that an employer retains the inherent right to terminate a probationer whose output is substandard, provided the action complies with the service rules and does not cast an unfair stigma on the worker.

Conclusion

Misconduct is an important and legally recognised ground for the dismissal of a workman under Indian labour law. However, not every mistake or minor act of indiscipline can result in dismissal. The misconduct must be serious in nature and should be proved through a fair procedure before such a harsh punishment is imposed.

As discussed in this article, courts have recognised acts such as participation in an illegal strike, making defamatory statements against the employer, using abusive language, creating nuisance in the workplace, and habitual absenteeism as forms of misconduct that may justify dismissal. At the same time, courts have consistently emphasised that employers must follow the principles of natural justice by conducting a fair enquiry and giving the workman an opportunity to present his side of the case.

The decisions discussed also show that courts try to maintain a balance between the rights of workmen and the employer's need to maintain discipline in the workplace. While employers have the power to take action against serious misconduct, that power cannot be exercised arbitrarily or unfairly.

Therefore, dismissal for misconduct is legally justified only when the misconduct is properly established, the procedure adopted is fair, and the punishment is proportionate to the seriousness of the act. In this way, Indian labour law seeks to protect both workplace discipline and the rights of workmen.

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