

Disciplinary Action Approaches– Legal Practitioner Perspectives

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Abstract

Discipline is the modulation of human behavior for desired performance. It encourages employees to conform to the established norms of performance and observe organizational values and standards of behavior. Work discipline is the key to a company's success in achieving its goals, as it is the adherence to the rules in the organization related to the absence, quality of work, quantity of work, knowledge of work, and so forth. Discipline is a procedure that corrects or punishes a subordinate because a rule of procedure has been violated.

Discipline is essential for an organization to ensure employees are aware of the rules, standards and policies and the consequences of infractions.

Keywords: Discipline at the Workplace, Disciplinary Action, Misconduct, Industrial Employment Standing Order Act, Perspectives

Introduction

Webster's Dictionary gives three basic meanings to the word 'discipline': training that corrects, molds, strengthens or perfects, control gained by enforcing obedience and punishment or chastisement. Discipline is a form of training that seeks to improve and shape the knowledge, attitudes and behaviors of employees so that employees voluntarily seek to work cooperatively with other employees and improve work performance. It is defined as socially and morally responsible behavior motivated by intrinsic factors and not solely by anticipating external rewards or fear of punishment.. The main purpose of discipline is to improve efficiency as much as possible by preventing and correcting the individual actions necessary to support the smoothness of all organizational activities to achieve maximum goal. Discipline in the workplace is the means by which supervisory personnel correct behavioral deficiencies and ensure adherence to established company rules. The purpose of discipline is correct behaviour, not designed to punish or embarrass an employee.

Components of discipline - An effective discipline program is beneficial to both the employer and employee. It helps employees correct any shortcomings and creates documentation to protect the employer in the event of a termination. It also includes issues that must be addressed before disciplining, methods of disciplining, how to provide employees with an opportunity to respond, and laws relevant to termination.

Self-discipline is a determination to achieve goals, orderly behavior is a condition for orderly behavior, and punishment is used to prevent indiscipline. Punishment is used to punish and prevent recurrences of indiscipline.

Guidelines for Managing Employee Discipline - Discipline management is intended to promote a minimum acceptable behavior by employees, and is part of the human resource team's responsibility to look into employee disciplinary issues. To develop a disciplined workforce, guidelines can be referenced and enforced with corrective measures.

Policy Formulation - It is essential to have a policy that defines the code of conduct expected from employees in various contexts. It should be regularly updated, reviewed and shared with all employees in an easily accessible employee handbook format. The consequences of violating the policy should be clearly articulated. The policy document should be shared in the employee portal and read and accepted during on-boarding and at least once each year.

Disciplinary Committee -A disciplinary committee should be formed to take care of discipline management and document all disciplinary actions taken against defaulters. The objective of disciplinary actions should be a transformation in employee behavior and should be carried out with rationality and without bias. Progressive Discipline should be followed, starting with verbal counseling to written warnings and monetary deductions. Redressed of complaints should be fair, confidential and transparent. An online Helpdesk should be created to address employee complaints and grievances.

Background Screening - Recruiters and hiring managers should conduct background checks of candidates before making an offer to prevent wrong hires.

Fairness - Organizations should prioritize long-term sustainability, growth, goodwill and positive employee-employer relationships when drafting employment policy.

Approaches to discipline

1. Legalistic Approach

Organizations have been using the legalistic approach for a long time, where the nature of an offence is determined by carefully weighing the evidence and taking all the steps prescribed for disciplinary procedure. The law of natural justice is followed, and the offender is given an opportunity to defend himself, cite mitigating factors and plead for clemency. However, this approach has inherent limitations and can provide temporary relief without any permanent solution. Despite these limitations, the legalistic approach is often adopted in Indian industries, as it follows the law of natural justice and provides the offender with an opportunity to state their side of the case. However, the judicial approach is time-consuming and leads to delays, and management may resort to strategic leniency to avoid reactive responses. Discipline tends to connote strict adherence to rules and regulations rather than to meeting the objectives of the organization.

2. Humanitarian Approach

The Humanitarian approach is a soft approach that focuses on establishing a healthy interpersonal relationship between the leader and the employees. Corrective mechanisms involve being considerate to the employees and helping them to get over their personal difficulty. Punitive actions are avoided as much as possible. This approach is often perceived as a soft approach due to individual and personal factors such as attractiveness, biases, and stereotypes.

3. Human resource Approach

The most important details in this text are that the human resource is the most important factor of production and that discipline is due to failure of the training and motivating system and individual failure to measure up to the prevailing norm. The disciplinary authority must look into two objectives of the disciplinary process: Is the violation so serious as to jeopardize the functioning of the organization, and can the offender be reformed by disciplinary action. This approach attaches importance to discipline being more a matter of self-control than external control.

4. Behavioral Approach

The Behavioral Approach is the most important approach in the study of management and administration, focusing on the behavior of individuals and groups in administrative organizations. It focuses on human relations and employee well-being, creating conditions that keep workers satisfied and motivated. Social factors and psychological motivations take on more importance than financial incentives. This approach assumes the worker wants to work and that if the manager provides the right environment, productivity will follow.

5. Leadership Approach

Leadership is a process of influencing employees to act and behave in a manner conducive to achieving organizational goals and in accordance with the norms laid down. Every manager or supervisor is directly responsible for maintaining high standards of discipline among their people. The leadership style based on mutuality of interaction, persuasion, healthy interpersonal relationships, and participation and involvement of employees in norm-setting processes is more conducive to ensuring conformity to the norms and generating commitment to organizational policies and objectives. Every manager has to develop a leadership quality as they have to guide, control, train, develop and lead a group of men and act as a leader whatever their position in the organizational hierarchy. They can administer discipline among the men, whose work is under their direct supervision, much more than even the top management can.

Procedure for Disciplinary Action - The Industrial Employment (Standing Orders) Act requires employers to prescribe the procedure for taking disciplinary action. Model standing orders framed by the central government are adopted by employers. The courts have emphasized observance of natural justice before visiting an employee with punishment. The judiciary in India has infused legal formalism into the law of work discipline and made industrial employers aware of the legal restriction on their common law right to 'hire and fire'.

Steps in Disciplinary Procedure:

The essential steps in a disciplinary procedure are as follows:

Complaint and Preliminary Enquiry, Issue of Charge sheet, Consideration of Explanation, Suspension Pending Enquiry, Holding of Enquiry, Order of Punishment, Appeal.

PRINCIPLES OF NATURAL JUSTICE - Industrial discipline is essential for maintaining peace and harmony in industry, and there is a procedure for initiating and conducting enquiry based on natural justice.

Principle of natural justice: Natural justice is based on equity, honesty and right, with the main ingredients being Nemojudex in causasua and Audi alterampartem. Nemojudex in causasua means no one should be made a judge in their own cause and Audi alterampartem means to hear the other side.

Audi AlteramPartem

Audi AlteramPartem is the principle of fundamental justice or equity, which states that individuals should not be penalized by decisions affecting their rights unless they are given prior notice and a fair opportunity to answer and present their own case. This principle includes the rights of a party to be heard or to have a fair opportunity to challenge the evidence presented by the other party, rights to present evidence or to have a council, and no person shall be condemned, punished or have any property or legal right being compromised by the law without being heard. The case of Cooper v. Wands worth Board of Works and Delhi Transport Corporation V/s D. T. C. Mazdoor Congress and Ors. Both highlighted the importance of giving people the opportunity to be heard before administrative authorities demolish their property. In Cooper v. Wands worth Board of Works, the plaintiff was a builder who was employed to build a house within the Wands worth district, but the board did not give him a hearing opportunity.

In Delhi Transport Corporation V/s D. T. C. Mazdoor Congress and Ors., the authority was able to terminate the services of an employee without assigning any reasons in the order and without giving any opportunity of hearing to the employee before passing the order. It was held that the rules and regulations must be reasonable, fair and just and not arbitrary, fanciful and unjust, which violated the principles of natural justice and Article 14 of the Indian Constitution.

NemoJudex in CausaSua

The maxim NemoJudex in CausaSua is applied to the appearance of any possible bias, even if there is none. This principle is based on the case of Dimes vs. Grand Junction Canal in which it was held that the judgment was done on the grounds of interest and that the decree of the judgment was therefore voidable and must be consequently reversed. Another maxim similar to this is Nemojudexidoneus in propriacausaest, Nemojudex in parte sua, Nemojudex in re sua, Nemodebetesjudex in propriacausa, In propriacausaNemojudex etc. In the case of A.K. Kraipak V/s Union of India, the court held that there was definitely a conflict between his personal interest & the duty being cast on him so the decision so arrived was against the principles of natural justice.

Judicial bias

Judicial bias is the act of a judge having a personal or professional interest in a case. This can lead to a favourable decision being given to friends or relatives and used against enemies. To avoid this, judges

should have no pecuniary interest in the case. This is against the principle of natural justice as no one can be a judge in their own cause.

Importance of Natural Justice

Natural Justice is the concept of common law which means fairness, reasonableness, equality and equity in the decision-making process. It is important because it ensures procedural fairness and also fair decision making. It has two components: the plaintiff should be given a chance of fair hearing and the decision-maker should be free from bias or predetermination. It is necessary for a society governed by the rule of law to promote the notion of the rule of law. The principles of Natural Justice are great as humanizing tools to ensure fairness and securing justice.

Natural Justice and India

In India, there is a law that if an order passed by the original authority violates any of the fundamental rights, an appeal of a remedy can be filed in the court. Article 14 of the Constitution also safeguards the principle of natural justice, which includes both 'Audi alteram partem' and 'Nemo iudex in causa sua'. Article 311 of the Constitution also incorporates many of the features of natural justice, such as no person can be removed or dismissed or reduced in rank without an inquiry. Article 21 of the Constitution states 'procedures established by law', which can be interpreted as fair decision making or no bias-ness, fair hearing. In Indian law, natural justice is not directly mentioned anywhere, but it can be interpreted by fundamental rights mentioned in the constitution and various case laws like the case of Ashok Kumar Yadav vs. State of Haryana in which it was held that it is one of the fundamental principles of jurisprudence that no man can be a judge in their own case and the judge in the performance of that should be disqualified from their post.

Exclusion of the applications of the Principles of Natural Justice

The Principles of Natural Justice are applicable to all Judicial & Quasi-judicial matters, but the judge or decision-maker can be exempted from all that would otherwise be required. Factors such as emergency, confidentiality, routine matters, impracticability, interim preventive action, legislative action, and no right of the person or plaintiff have been infringed can dismiss the principles of Natural Justice.

Misconduct – meaning and scope

Misconduct in service is defined by the Model Standing Orders of the Industrial Employment (Standing Orders) Act, 1946. It includes wilful insubordination, theft, fraud, damage, taking or giving bribes, habitual absence without leave, habitual late attendance, habitual breach of any law applicable to the establishment, riotous or disorderly behaviour, habitual negligence or neglect of work, frequent repetition of any act or omission for which a fine may be imposed to a maximum of 2 percent of the wages in a month, and striking work or inciting others to strike work in contravention of any law or rule. The Supreme Court in Ravi Yashwant Bhoir v. District Collector, Raigad observed that the word "misconduct" has its connotation from the context of delinquency in its performance and its effect on the discipline and nature of the duty. It must involve moral turpitude, improper or wrong behaviour, unlawful behaviour, wilful in character, a forbidden act, a transgression of established and definite rules of action or code of conduct, but not mere error of judgement, carelessness or negligence in performance of the duty. Misconduct must bear forbidden quality or character and its ambit must be construed with

reference to the subject matter and context wherein the term occurs, keeping in view the scope of the statute and the public purpose it seeks to serve. Misconduct is to be measured in terms of the nature of the misconduct and it should be viewed with the consequences of misconduct as to whether it has been detrimental to public interest. The Supreme Court in *State of Punjab v. Ram Singh Ex-Constable* observed that the word 'misconduct' is not capable of precise definition, but that reflection receives its connotation from the context, the delinquency in its performance and its effect on the discipline and nature of duty.

It may involve moral turpitude, improper or wrong behaviour, unlawful behaviour, willful in character, forbidden act, a transgression of established and definite rule of action or code of conduct, but not mere error of judgment, carelessness or negligence in performance of the duty. The court has left it for the industrial adjudicator to decide in each case whether the alleged act, in the facts and circumstances of the case, would amount to 'misconduct'. This appears to be a pragmatic view of the matter.

INDUSTRIAL EMPLOYMENT (STANDING ORDERS) ACT, 1946

The Labour Investigation Committee (1946) observed that industrial workers have the right to know the terms and conditions under which they are employed and the rules of discipline they are expected to follow. The Industrial Employment (Standing Orders) Act, 1946 was passed to ensure employers define and make known the conditions of employment.

The Industrial Employment scenario is challenged by LPG phenomenon. In addition to this the world is facing the flames of the coronavirus pandemic, which has brought a thought for discipline in such situation to follow and guide. To bring out the awareness among professionals and learners trainees, everyone will benefit from the input of the subject of the research.

REVIEW OF LITERATURE:

The researcher searched for a supportive review of literature to understand the research work carried out on this topic. This review helps the researcher to state the research objective of exploring more about industrial relations at the workplace.

Aditi Gaur, Industrial Employment (Standing Order) Act: The paradigm of labour - management relations, Journal of exclusive Management Science, Dec, 2015 vol 4 issue 12 ISSN 2277-5684

The Industrial Employment (Standing order) Act, 1946 is a law that was enforced from 1st April 1947 to ensure sound working practices in industries across India. It has helped to avoid industrial strike and lockout, quibble and bitterness, and has been essential in today's context as it specifies the responsibilities of both the employer and workman. This helps to create conditions that favoured the advancement of industrial harmony.

Chander, H. (1989). INDUSTRIAL INDISCIPLINE IN INDIA-CAUSES AND CURES. Journal of the Indian Law Institute, 31(4), 456-481.

Industrial discipline is linked to the triangular interest conflicting in Industrial Relations in India. It is linked to the behaviour of labour and employers, as well as the behaviour and practices of employers. Initial results of the code of discipline were encouraging, with the number of man days lost declining

from 4.7 million to 21.9 million during July to December 1960. However, when management attempts to enforce discipline on the workmen, they face violent opposition from the workers.

The paper cites two main causes of industrial strife and indiscipline in India: monetary pressures on the working class and personal matters such as discharge, dismissal, disciplinary action, and retrenchment. It also mentions that industrial indiscipline is not necessarily due to economic factors, but also due to psychological and personality characteristics which influence industrial relations. Between 1947 and 1985, 15.6% of industrial disputes arose from indiscipline and violence.

Chattopadhyay, G., & Sengupta, A. K. (1969). Growth of a disciplined labour force: A case study of social impediments. *Economic and political weekly*, 1209-1216.

The Indian labour force is undisciplined, leading to high absenteeism and turnover rates, as well as poor performance. Singer 1960 argues that the institutional framework of Indian society has been a barrier to modern industrial development. The paper aims to show that while certain features of over changing social structure are favourable for the creation of a "stable workforce", the administration of such a workforce is not without problems.

The research findings suggest that a positive change is taking place in the words of industrial workers, with the factory providing the best job to those who are less educated in terms of income and security. This is due to the prestige of the job, the difference in the way of life in pre-industrial trade, and the lack of a rational personal policy to provide job satisfaction and identification with the enterprise.

June 2017 IANS, majority of Indian employees support unethical behaviour at workplace survey OMMCOM News.

The Ernst and Young Asia Pacific Fraud Survey conducted between November 2010 and February 2017 found that Indian employees increasingly justify unethical behaviour at the workplace due to inconsistency and ambiguity in encouraging high ethical standards and insufficient understanding of compliance programs. 57% of respondents stated that senior management tends to overlook dubious actions of employees to attend corporate targets, and 58% were willing to work for firms involved in a major bribery or fraud case.

MOZUMDER, S. A. (2017). Importance of Employee Discipline In Industrial Relations-A Theoretical Approach.

This research article discusses the importance of employee discipline in industrial relations, the causes of indiscipline in the workplace, and the effects of indiscipline. It also discusses the causes of indiscipline, such as lack of rules and regulations, low wages, poor working conditions, leadership crisis, grievance redressal mechanisms, exploitation of workers, arrogant management, and poor channel of communications, irresponsible supervisor, irregularities and nepotism in promotion.

Padmaja, B., & Rao, N. V. (2014). An empirical study on employee discipline in Andhra Pradesh southern power Distribution Company limited, Praksasm district. *International Journal of Management Research and Business Strategy*, 3(4), 72-77.

This paper studies employee discipline practices and employee relations in APSPDCL. It suggests that managers should be provided with adequate training to handle disciplinary problems and have the right emotional balance to take disciplinary action against employees who are violating the rules.

Paras, P. (2017), Study on impact of indiscipline in the workplace, Volume XII: Airo International Research Journal.

This research article discusses the impact of indiscipline at the workplace. It outlines two stages of the disciplinary process: the investigation stage and the discipline stage. The investigation stage includes conducting an investigation with another member of Management, union representation, talking to witnesses, investigating the paper trail, and seeking outside help to investigate evidence of misconduct. It also suggests measures to prevent indiscipline at the workplace.

Singh, J. (2003). Incentives and Judicially Determined Terms of Employment in India: Endemic Trade-Off between Justice and Efficiency. *Economic and Political Weekly*, 123-134.

This paper discusses the tradeoff between justice and efficiency when it comes to dismissing workers. It recognizes two categories of termination: common law right of employers to terminate services by serving notice, and breach of contract. It also highlights the industrial employment standing orders act, which defines the law regarding the termination of a worker on the basis of pre-stipulated terms. This act was legislated to standardize the conditions of employment across all large establishments and provide job security to industrial workers. Infected standing orders have been held to be stronger than the conventional contract by the courts, as the terms and conditions set out in the standing orders are confined to directing the procedure for dismissal of workers as a punishment for misconduct.

Certain categories such as incompetence are not entertained by Indian labour law as misconduct. Punishments typically are allowed for acts of misconduct, such as reprimand, warning, withholding of increments in a graded scale of pay, fine, demotion, suspension and dismissal. The article also states the importance of steps that have to be taken before dismissing a worker to ensure natural justice prevails.

Visvanathan, V. B., Kunapalan, H. (2020). Individual, organization and opportunity factor in the relation to employee misconduct in the workplace: a review. *Asian People Journal (APJ)*, 3(2), 43-49.

Employee misconduct in the workplace is caused by a variety of factors, including individual factors, organization factors, and opportunity factors. Organizational Human Resource practices are misused or over productive, and lack of effective policies is the main contributing factor. Individual incentive compensation can also lead to employee misconduct, and it is important to discipline employees consistently.

Times of India (TOI), 2019, 'Study of misconduct rules important for lawyers'

PC Marpakwar in his lecture at the High Court Auditorium Nagpur in April 2019 said that it is important for lawyers to study the provisions of the Industrial Employment (Standing order) Act, 1946 so that they can defend clients' effectively when an enquiry is ordered by an employee for misconduct. He further said that proper procedure should be followed before initiating an inquiry against an employee for misconduct, and that lawyers need to compile all the details regarding the misconduct that happened at the workplace. Leadership has an important role in developing harmonious relations at the workplace, and is a catalyst factor in coordinating the discipline and standard at the workplace. Monitoring of healthy work practices is of prime importance and is a role of leadership.

Research Methodology

1. Statement of the Problem:

Under the Industrial Employment Standing Order Act, 1946, employers provide conditions for workmen to follow, but if they violate these conditions, disciplinary action must be taken. This study helps to understand the reasons for major misconduct by workmen, the disciplinary actions, judgments given on the grounds of natural justice, and perception of advocates about the Act. Studies show that employees involved in unethical acts and behaviors are not aware of the norms and rules sometimes.

2. Significance of the study: This study is important for HR managers in managing human resources and dealing with misconduct done by workmen. It helps to know the major misconduct and unethical behaviour of workmen at the workplace, procedures of handling misconduct, precautionary steps in regards to misconduct and indiscipline, and the importance of natural justice. It may also help to find shortcomings in Standing orders and update them.

3. Objectives of the study: The study aims to understand the importance of the Industrial Employment (Standing Order) Act, 1946, the major reasons behind misconduct by workmen, the procedure for handling misconduct by workmen under the Act, and the perception of advocates.

4. Scope of the study: The study assesses the judgment passed on misconduct and unethical behaviour under the Industrial Employment (Standing Order) Act, 1946, with special reference to the High Court of Karnataka from 2015 to 2020 (secondary Data). It helps to understand the importance of the Act, its procedure, and the perception of Advocates.

Key Variables:

- Industrial Employment Act, Age of Advocates, Experience, and Misbehavior are independent variables.
- Misconduct by workmen, High Court judgments, and advocates' perception of Industrial Employment Act are dependent variable.

Research Design: Descriptive-analytical research design helps to accurately portray the characteristics of a group or situation and analyze variables..

Sampling Design:- The study sampled all advocates and judgments on misconduct of workmen under Industrial Employment Act, 1946.

Unit of the Study: A legal case filed under the Industrial Employment Act, 1946 and a judgment given by the High Court of Karnataka, with sixty sample size **simple** random sampling was used.

Methods of data collection: This research used both qualitative and quantitative data to gain an in-depth understanding of misconduct by workmen, investigation procedure, and judgments given by the high court of Karnataka.

Secondary data is gathered from Current Labour report, Labour law journal, and High Court of Karnataka to analyze and interpret cases filed under Industrial Employment (Standing order) Act, 1946. The study is limited to the High Court of Karnataka, only considering the perceptions of advocates

Data analysis-

1) Qualification of the respondents- 83.33% of advocates are LLB qualified, while 16.7% are LLM qualified.

2) Industrial employment (standing Orders) Act, 1946 has helped to avoid workplace misconduct and strengthen industrial relations.- The majority of advocates agree that the Standing Orders Act requires employers in industrial establishments to formally define the conditions of employment, which regulates Industrial Relations and grievances and misconduct.

3) It is the judiciary in India that has infused legal formalism into the law of work-discipline and has made the industrial employers aware of the legal restrictions on their common law, right to 'hire and fire'.- The most important details are that 60% of advocates agree, 21.7% disagree, 15% strongly agree and only 3.3% strongly disagree. The judiciary has brought laws like Standing Orders Act to regulate workers behaviour at the workplace and the common practice of right to hire and fire.

4) A large body of law of discipline is to be found in the judge made law- 51.7 percent of advocates agree, 36.7 percent disagree, 10 percent strongly agree, and 1.6 percent strongly disagree.

5) Workmen who do misconduct are unaware of the consequences that they have to face for the breach of standing orders- Data shows that 45% of advocates agree, 40% disagree, 11.70% strongly agree and 3.33% disagree. This is due to illiteracy, poverty and lack of awareness of the required mode of conduct at the workplace.

6) Major reason for misconduct by a workman at the workplace- Data shows that 51.7 percent of advocates say all the reasons mentioned are major reasons for misconduct. 16.7% say mental stress and pressure is the major reason, 13.3% conflict with management is the major reason, 5% conflict with co-workers is the major reason, 5% employee satisfaction is the major reason, and 3% workload is the major reason. However, there are various reasons for misconduct, such as wages allowances and bonuse being part of the misconduct.

7) Wages, allowances and bonus are major causes for misconduct in India- 56.7 percent of advocates disagree with the statement that wages and allowances are major causes of misconduct in India, while 43.3 percent agree. There are other reasons for misconduct.

8) Misconduct can be illustrative; they cannot always be exhaustive- 73.3 per cent of advocates agree with the statement, while 26.7 per cent disagree.

9) The most appropriate approach for the disciplinary action- Data indicates that 41.7 percent of advocates agree that humanitarian approach is appropriate, 26.7 percent agree that legalistic approach is appropriate, 11.7 percent agree that leadership approach is appropriate, 10. percent agree that human resource approach is appropriate, and 10. Percent agree that behavioral approach is appropriate. All respondents have considered one of the above approaches, with legalistic approach and humanitarian approach being the most popular.

10)The employer is under no obligation to state reasons to the employee for his dismissal at any time- 93.3 and 6.7 percent of advocates disagree with the statement that dismissing a workman without reason is against the principle of natural justice and the employer's dominance over the workmen. This reflects the idea of hire and fire.

11)Dismissal of workman by employer cannot be interfered with merely because domestic enquiry was not conducted –Data shows that 26.7 percent of advocates agree, 55 percent disagree, 13.3 percent strongly disagree and 0.5 percent strongly agree. Holding an domestic enquiry gives the employer the opportunity to prove charges of misconduct and the workman the opportunity to defend himself before punishment is imposed.

12)A domestic inquiry should not be an empty formality but an essential condition to the legality of the disciplinary order - Domestic enquiry is essential for the legality of disciplinary orders, with 96.7 per cent agreeing and only 3.3 per cent disagreeing. It is held to check if charges are put on the workmen Alto, not just for formality.

13)Employment termination without notice and without inquiry justified for unauthorized long leave-Data shows that 40% of advocates disagree, 30% strongly disagree, 25% agree and only 5% strongly agree. Every worker has a right to know why they are terminated and to have an opportunity to explain the situation.

14)An enquiry which begins with the examination of the workman himself will be bad in law in as much as it would be contrary to the principle that one who alleges must prove. It is the management which has to first lead evidence against the workman in support of the alleged misconduct with the right to the workman to cross-examine the witnesses of the management. - 63.3 percent of advocates agree, 31.7 percent strongly agree, 3.3 percent disagree, and 1.7 percent strongly disagree. It is clear that employers must provide evidence to prove charges of misconduct.

15)Domestic enquiry held against the alleged workman is not fair and proper and so the case is trialed in the court –Data shows that 60.0% of advocates agree, 23.3% strongly agree, 15.0% disagree, and 1.7%) strongly disagree. Every case has a different or similar scenario, and if domestic enquiry is not held properly, workmen will take legal support from the court to get justice.

16)Whatever the punishment or decision is given by the management are in commensurate with the act of misconduct- Data shows that 51.7 percent of advocates agree, 28.3% disagree, 13.3% strongly agree, and 6.7 percent strongly disagree with the punishment or decision given by management. However, some cases have shown that the punishment or decision is not commensurate with the act of misconduct.

17)Employers may discharge at any time ‘for good cause, for no cause, or even for cause morally wrong’, without being thereby guilty of “a legal wrong” - Data shows that 60.0% of advocates disagree, 11.7%) agree, 11.7%) strongly disagree, and 1.7%) strongly agree that employers can discharge workmen at any time, resulting in 'employment at will' and no right to save employment.

18) Essential and sufficient time is given to the workmen to prove his innocence - 68.3% of advocates agree, 21.7%) strongly agree, and 10% disagree, indicating that workmen are given sufficient time to prove their innocence in domestic enquiries and court trials.

19) Where the rules are silent about disciplinary principles, the courts have emphasized observance of the principles of natural justice before visiting an employee with punishment - The most important details are that 61.7 percent of advocates agree, 30 percent strongly agree, 6.6 percent disagree, and only 1.6 percent strongly disagree. This shows that courts have emphasized the principle of natural justice, providing opportunity to the workman.

20) The Principles of natural justice must be read wherever the standing orders provide for automatic termination of services for absence without leave –Data shows that 88.3% of advocates agree with the statement that the law is based on the principle of natural justice. This means that if a man is terminated automatically from service for absence without leave, they must be given an opportunity under the principle of natural justice. These rules only operate in areas not covered by any law validly made, not supplanting it.

21) Industrial indiscipline should be understood not merely from the angle of the technical economic requirements of production and productivity in an industrial system but must be concerned with psychological and sociological factors - Data shows that 78.3% of advocates agree, 11.7%) disagree, and 10% strongly agree. It is important to consider the psychological and sociological aspects of industrial discipline in order to come to a better conclusion.

22) The company's insistence on an undertaking for good conduct before allowing workmen to resume duty is the ideal solution to the standoff - Data shows that 70.0 percent of advocates agree, 15.0 percent strongly agree, 11.7 percent disagree, and 3.3 percent strongly disagree. Taking an undertaking for good conduct from the workman to resume duty is an ideal solution to both the workman and the employer, as it will help to prevent any misconduct from the workman in the future.

23) Failure to attain the highest standard of efficiency in the performance of duty, permitting an inference of negligence, may be sufficient ground for not considering an employee for promotion but would not constitute 'misconduct' indicating lack of devotion to duty - Advocates agree that if workmen are not efficient, it is not misconduct or indiscipline and cannot be considered for promotion.

24) Unauthorized absence from service for a long period of time not a minor misconduct and is a ground for dismissal - Data shows that 66.7 percent of advocates agree with the statement, 16.6% disagree, 11.7 percent strongly agree, and 0.5 percent disagree. If a workman is absent without authorized leave for a long period, they must be given a chance to explain their reasons and informed of the steps to be taken.

25) Where an employee absents himself from duty, without sanction for very long period, it prima facie reflects a habitual negligence in duties and lack of interest in work - Data shows that 60.0

percent of advocates agree, 21.2 percent disagree, 15.2 percent strongly agree and 3.0 percent disagree. Absence for a long time is a sign of neglect and lack of interest in work.

Hypothesis testing:

1) Cross tabulation between ‘Workmen who do misconduct are unaware of the consequences that they have to face for the breach of standing orders’ and ‘Where the rules are silent about disciplinary principles, the courts have emphasized observance of the principles of natural justice before visiting an employee with punishment.’

A chi-square test of independence found no significant association between unawareness of consequences and observance of natural justice before punishment, with a p-value of .875164.

2) Cross tabulation between ‘Essential and sufficient time is given to the workmen to prove his innocence’ and ‘A domestic inquiry should not be an empty formality but an essential condition to the legality of the disciplinary order’.

The chi-square test of independence showed that there was no significant association and sufficient time was given to the workmen to prove their innocence. The result was significant at p .05.

3) Cross tabulation between ‘Domestic enquiry held against the alleged workman is not fair and proper and so the case is trialed in the court’ and ‘Where the rules are silent about disciplinary principles, the courts have emphasized observance of the principles of natural justice before visiting an employee with punishment’.

A chi-square test of independence found no significant association between domestic enquiry held against the alleged workman and observance of natural justice before visiting an employee with punishment. The p-value is .834532 and the result is not significant at p .05.

Summing up

The Standing Orders Act 1946 has attempted to ensure a healthy and harmonious relationship at the workplace by imposing compulsion on employers to put forth the conditions of employment. To address misconduct promptly, management needs to act quickly and workplace practices play an essential role. Workers need to be made aware of the conduct expected from them and the disciplinary action and consequences to be faced if misconducted. This can help to minimize the chance of misconduct and create a better work environment.

Perception of advocates on misconduct by workmen under Industrial Employment (Standing orders) Act, 1946 - Advocates view misconduct from the legal perspective, and their perception is essential to be studied to develop effective policies, Standing orders and practices to prevent and handle misconduct at the workplace. It differs from the perception of management and workmen.

Role of management in reducing misconduct at the workplace - Management is essential for reducing misconduct at the workplace. They need to be conscious of their role and responsibilities, fulfill their obligations, create an atmosphere of mutual cooperation, confidence and respect, adopt a proactive approach, rework communication channels, check on cause and effect of misconduct, develop

strong policies on misconduct, follow domestic investigation appropriately and stepwise, and take necessary action depending on the severity of misconduct.

Role of Judicial machinery - Judicial machinery provides a fair opportunity for both workmen and management to be heard and given a fair decision, with proper investigation and punishment for misconduct.

Role of trade unions - Trade unions are responsible for inculcating discipline, self-respect, and dignity among workers and generating a committed industrial workforce. They need to educate workers about the expected conduct and make them aware of misconduct and its consequences. They also need to develop training programs for workmen on behaviour and conduct.

Role of Employers organization - Employers organizations are responsible for protecting and promoting the interests of workers, promoting harmonious relations between management and labour, and developing preventive strategies for misconduct. They also need to ensure employers adhere to their role.

Agencies of labour welfare - Agencies of labour welfare play an important role in raising morale and improving relations between employees and workmen, as well as developing welcoming behaviour.

Findings, Conclusion, Suggestions and Future scope of study:

Based upon the quantitative data from advocates perspective and qualitative data analysis, various findings were found, and these will help HR professionals, advocates, learners and trainees to gain important perspective on misconduct at workplace.

Major Findings:

- This study found that 8.3% of female respondents participated, 48.3% were in the age range of 41-50, and 83.3%) were LLB qualified. 85.3% believed that the Industrial Employment (Standing Order) Act, 1946 has helped to avoid workplace misconduct and strengthen industrial relations. 60% agreed that the judiciary in India has infused legal formalism into the law of work-discipline and made industrial employers aware of the legal restrictions on their right to 'hire and fire'. 51.7%) agreed that a large body of law of discipline is to be found in the judge made law.
- The survey found that 45.0 percent of respondents agreed that workmen who do misconduct are unaware of the consequences they have to face. 51.7 percent said that the major reason for misconduct is all of the above, including conflict with management, conflict with co-workmen, employee satisfaction, family issues, workload, mental stress and pressure. 56.7 percent disagreed that wages, allowances and bonus are major causes for misconduct in India. 73.3 percent agreed that misconduct can be illustrative, 41.7 percent said that a humanitarian approach is the most appropriate approach, and 93.3 percent disagreed that the employer is under no obligation to state reasons to the employee for his dismissal at any time.
- The survey found that 55% of respondents disagreed that dismissal of workmen by employer cannot be interfered with merely because domestic enquiry was not conducted. 96.7% agreed

that a domestic inquiry should not be an empty formality but an essential condition to the legality of the disciplinary order. 40% disagreed that employment termination without notice and without inquiry justified for unauthorized long leave. 63% agreed and 32% strongly agreed that an enquiry which begins with the examination of the workman himself will be bad in law. 60% agreed that domestic enquiry held against the alleged workman is not fair and proper and so the case is trialed in the court.

- 51.7% agreed that whatever punishment or decision is given by the management are in commensurate with the act of misconduct. 60% disagreed that employers may discharge at any time 'for good cause, for no cause, or even for cause morally wrong', without being thereby guilty of "a legal wrong".
- The most important details in this text are that 61.7 per cent of respondents agreed that the courts have emphasized observance of the principles of natural justice before visiting an employee with punishment, 88.3 per cent agreed that the Principles of natural justice must be read wherever the standing orders provide for automatic termination of services for absence without leave, 78.3 per cent agreed that industrial indiscipline should be understood not merely from the angle of the technical economic requirements of production and productivity in an industrial system, and 70.0 per cent agreed that the company's insistence on undertaking for good conduct before allowing workmen to resume duty is the ideal solution to the standoff. 75.0 per cent agreed that failure to attain the highest standard of efficiency in the performance of duty may be sufficient ground for not considering an employee for promotion, 66.7 per cent agreed that unauthorized absence from service for a long period of time is not a minor misconduct and is a ground for dismissal, and 60.0 per cent agreed that where an employee absents himself from duty, without sanction for very long period, it prima-facially reflects a habitual negligence in duties and lack of interest in

Findings of the study from hypothesis framed and tested - A chi-square test was used to determine if the variables were related.

1.

H1: Workman is unaware about the consequences of breach of standing orders.

H0: Workman is aware about the consequences of breach of standing orders.

The test results show that the chi-square statistic is 0.0247 and the p-value is .875164, suggesting that the workman is aware of the consequences of breaching standing orders.

2.

H2: Alleged workman is not given sufficient time to prove his innocence during domestic action.

H0: Alleged workman is given sufficient time to prove his innocence during domestic action.

The test results show that the chi-square statistic is 4.7022 and the p-value is .030124, meaning the result is significant at p .05. We accept the alternate hypothesis and reject the null hypothesis.

3.

H3: Most of the domestic enquiry held against the alleged workmen are not fair and proper.

H0: Most of the domestic enquiry held against the alleged workmen are fair and proper.

The test results show that the chi-square statistic is 0.0436 and the p-value is .834532, suggesting that the most of the domestic enquiry held against the alleged workmen are fair and proper.

Conclusion of the study:

This research found that the Industrial Employment (Standing order) Act, 1946 has helped to avoid workplace misconduct and strengthen industrial relations. It is the judiciary in India that has infused legal formalism into the law of work-discipline and has made industrial employers aware of the legal restrictions on their common law, right to 'hire and fire'. The major reasons for misconduct are conflict with management, conflict with co-workmen, employee satisfaction, family issues, workload, mental stress and pressure, and wages, allowances and bonus are not major causes. Respondents agree that misconduct can be illustrative and choose a humanitarian approach for the disciplinary action followed by a legalistic approach. They disagree that the employer is under no obligation to state reasons to the employee for his dismissal at any time and dismissal of workman by employer cannot be interfered with merely because domestic enquiry was not conducted. The management must first lead evidence against the workman in support of the alleged misconduct with right to the workman to cross-examine the witnesses of the management.

The most important details in this text are that domestic enquiry held against the alleged workman is not fair and proper, and that where the rules are silent about disciplinary principles, the courts have emphasized observance of the principles of natural justice before visiting an employee with punishment. Respondents disagree that employers may discharge at any time 'for good cause, for no cause, or even for cause morally wrong', without being thereby guilty of "a legal wrong". They also agree that failure to attain the highest standard of efficiency in the performance of duty may be sufficient ground for not considering an employee for promotion, but would not constitute 'misconduct' indicating lack of devotion to duty. Additionally, they agree that unauthorized absence from service for a long period of time is not a minor misconduct and is a ground for dismissal.

Suggestions

The management should conduct awareness and training programs on misconduct, conduct a test based on misconduct at least once a year, conduct studies on the behaviour of workmen annually, and take initiative to manage misconduct at the workplace. This will help to reduce the level of occurrence of misconduct

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