

HR Law Hotline

February 07, 2007

ASSAULTED A COLLEAGUE?

In a recent ruling, the Bombay High Court quashed an order of reinstatement of an employee passed by the industrial court and upheld the employee's dismissal for misconduct, observing that an act of assault on a fellow worker could not be regarded as a minor breach of discipline. The court agreed with the employer that such breach amounted to misconduct and stated that it "cannot be countenanced", even if committed outside the place of work.

The employee, who worked as a medical attendant for BEST (a public transport corporation in Mumbai) had assaulted a security guard. Following a departmental enquiry, the employee was found guilty of misconduct, and dismissed from service.

The employee raised an industrial dispute against the order of dismissal, which was struck down by the industrial court. Later, the industrial court ordered his re-instatement. BEST challenged this order of reinstatement, which was quashed by the Bombay High Court while upholding the order of dismissal. Significantly, the Bombay High Court found it necessary to emphasise that courts should desist from interference in a disciplinary action against an employee unless an appropriate case is made out.

This ruling of the Bombay High Court has once again established that there has been a change in the stance of the Court when deciding industrial matters. Earlier, the Indian courts, following a socialist philosophy, tended to be over-protective of the employees. Several recent decisions however indicate that the courts have realized that laxity towards employee discipline goes against the interest of industrial growth in a market-driven economy. The Supreme Court in *Mahindra and Mahindra Ltd. Vs. N.B. Naravade* AIR 2005 SC1993 had observed that an employee using abusive language against his superior is liable for dismissal. In another recent ruling, the Supreme Court has held that if an illegally sacked employee is reinstated on the orders of a court, the payment of back wages would not automatically follow as a natural consequence.

Employers can now breathe a sigh of relief, knowing that they have the support of the courts in upholding strict disciplinary norms in the work place.

- **Pranjal Puranik & Rina Kamath**

Source:

- *The Times of India*, Mumbai edition, February 3, 2007
- *The Economic Times*, Mumbai edition, February 5, 2007

DISCLAIMER

The contents of this hotline should not be construed as legal opinion. View detailed disclaimer.

This Hotline provides general information existing at the time of preparation. The Hotline is intended as a news update and Nishith Desai Associates neither assumes nor accepts any responsibility for any loss arising to any person acting or refraining from acting as a result of any material contained in this Hotline. It is recommended that professional advice be taken based on the specific facts and circumstances. This Hotline does not substitute the need to refer to the original pronouncements.

This is not a Spam mail. You have received this mail because you have either requested for it or someone must have suggested your name. Since India has no anti-spamming law, we refer to the US directive, which states that a mail cannot be considered Spam if it contains the sender's contact information, which this mail does. In case this mail doesn't concern you, please unsubscribe from mailing list.

Research Papers

Taxing Offshore Indirect Transfers in India

February 28, 2025

Unlocking Corporate Philanthropy

February 27, 2025

Digital Health in India

February 26, 2025

Research Articles

Re-Evaluating Press Note 3 Of 2020: Should India's Land Borders Still Define Foreign Investment Boundaries?

February 04, 2025

INDIA 2025: The Emerging Powerhouse for Private Equity and M&A Deals

January 15, 2025

Key changes to Model Concession Agreements in the Road Sector

January 03, 2025

Audio

CCI's Deal Value Test

February 22, 2025

Securities Market Regulator's Continued Quest Against "Unfiltered" Financial Advice

December 18, 2024

Digital Lending - Part 1 - What's New with NBFC P2Ps

November 19, 2024

NDA Connect

Connect with us at events, conferences and seminars.

NDA Hotline

Click here to view Hotline archives.

Video

Vaibhav Parikh, Partner, Nishith Desai Associate on Tech, M&A, and Ease of Doing Business

March 19, 2025

