

# MISCONDUCT AND DISCIPLINE

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❖ **Conduct** - **The way we behave**

■ **Misconduct** - **Improper Behaviour**

or

**Not confirming to the  
approved behaviour**

# MEANING OF MISCONDUCT

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✚ Improper Conduct

(Great Encyclopedia Dictionary)

✚ Violation of an express or implied condition of service

(Govinda Menon Case, Supreme Court)

✚ Malfeasance or culpable neglect of an official in regard to his office

(Oxford Dictionary)

# MEANING OF MISCONDUCT

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✚ **Misconduct arising from ill motives**  
(Strounds Judicial Dictionary)

✚ **Misconduct flowing out of ill motive**

Necessary Ingredients

Intention

Motive

Deliberate Action/

Inaction

Does not include

Negligence

Errors of Judgement

Innocent Mistakes

# JUDICIAL INTERPRETATION

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◆ **Failure to do that, what is required to be done**

(Jamuna Das Vs. Eastern Railway Co., 1933)

◆ **Something more than negligence**

(Gov.Gen. In Council Vs. J.D. Agarwal)

# JUDICIAL INTERPRETATION

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## ◆ Misconduct – A Generic Term

(Bhagwati Prasad Vs. I.G.P., Punjab)

### Includes

Malfeasance

Misdeameanour

Delinquency

### Not Necessarily Includes

Corruption

Criminal Intent

(Anantha Krishnan Vs. G.M. C.F.A.)

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# Misconduct with Reference to Conditions of Service

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## Contractual / Master Servant Relation

- ◆ **Non observance of duties (omission)**
- ◆ **Not giving full care and attention (negligence)**
- ◆ **Unauthorized Act (Commission)**

# TYPES OF MISCONDUCT

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- ⊗ **Improper conduct**
- ⊗ **Misconduct arising from ill motive**
- ⊗ **Misconduct arising from negligence**
- ⊗ **Misconduct arising from innocent mistake**
- ⊗ **Misconduct arising from errors of judgement**
- ⊗ **Misconduct arising from deliberate action/inaction**

# Disobedience of Lawful Orders – A Misconduct

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## CASE LAWS:

### Turner Vs. Massol (1845)

- (i) An employee must obey every lawful order except in rarest situation.
  - (ii) Dismissal from service is justified for willful disobedience.
  - (iii) Master is the judge of the circumstances under which services are required.
  - (iv) Order should be lawful.
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# Disobedience of Lawful Orders – A Misconduct

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## Pearce Vs. Foster (1896)

Conduct inconsistent with faithful discharge of duty – grave misconduct.

## Giri Narayana Raju Vs.O.C., AFStn., Allahabad(AIR 1974)

Order need not be backed by rule/regulations always

## Pannalal Patak Vs. Elgin Mills (1956)

The order must be couched in polite and courteous verbiage

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# FIVE LANDMARK DECISIONS OF THE SUPREME COURT

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- Union of India Vs. J.A. Ahmed, AIR 1979 SC 1022
- A.L. Kalra Vs. P&E Corpn.Ltd.,AIR 1984 SC 1361
- State of Punjab Vs. Ram Singh, AIR 1992 SCW 2595
- Union of India Vs. K. K. Dhawan, AIR 1993 SC 1478
- B.C. Chaturvedi Vs. Union of India., (1995)6 SCC 749

# Acts amounting Misconduct

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- ◆ If the act or conduct is prejudicial or likely to be prejudicial to the interest of the master or to the reputation of the master.
- ◆ If the act or conduct is inconsistent or incompatible with the due or peaceful discharge of his duty to his master.
- ◆ If the act or conduct of a servant makes it unsafe for the employer to retain him in service.

# Acts amounting Misconduct

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- ◆ If the act or conduct of the servant is so grossly immoral that all reasonable men will say that the employee can not be trusted.
- ◆ If the act or conduct of the employee is such that the master can not rely on the faithfulness of his employee.
- ◆ If the act or conduct of the employee is such as to open before him temptation for not discharging his duties properly.

# Acts amounting Misconduct

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- ◆ If the servant is abusive or if he disturbs the peace at the place of his employment.
- ◆ If he is insulting and insubordinate to such a degree as to be incompatible with the continuance of the relation of master and servant.
- ◆ If the servant is habitually negligent in respect of the duties he is engaged.

# Acts amounting Misconduct

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- ◆ If the neglect of the servant though isolated, tends to cause serious consequences.
- ◆ Willful insubordination or disobedience, whether alone or in combination with others, to any lawful and reasonable order of a superior.
- ◆ Infidelity, unfaithfulness, dishonesty, untrustworthiness, theft and fraud or dishonesty in connection with the employer's business or property.

# Acts amounting Misconduct

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- ◆ Strike, picketing, gherao-Striking work or inciting others to strike work in contravention of the provisions of any law or rule having the force of law.
- ◆ Gross moral misconduct-Acts subversive of discipline –Riotous or disorderly behaviour during working hours at the establishment or any act subversive of discipline
- ◆ Riotous and disorderly behaviour during and after the office hours or in business premises.

# Acts amounting Misconduct

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- ◆ Habitual late attendance.
- ◆ Negligence or neglect of work or duty amounting to misconduct-habitual negligence or neglect of work.
- ◆ Habitual absence without permission and over staying leave.
- ◆ Conviction by a Criminal Court.



# Misconduct beyond employment

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- Government servant is bound to observe certain standards of decency and morality in private life (L. Pandey vs. Dist. Magistrate - 1960)
- It is not necessary that the alleged act should have been committed in the discharge of duties as a *servant of the government* ( Govind Manon Vs. UOI 1967 S.C.)
- Action can be taken for past misconduct in another service. ( Bolchand vs. Kurukshetra University – 1967 S.C)