

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

Little International Guide (India) 2024

November 08, 2024

Unmasking Deepfakes

October 25, 2024

Are we ready for Designer Babies

October 24, 2024

Research Articles

The Bitcoin Effect

November 14, 2024

Acquirers Beware: Indian Merger Control Regime Revamped!

September 15, 2024

Navigating the Boom: Rise of M&A in Healthcare

August 23, 2024

Audio

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

November 19, 2024

Renewable Roadmap: Budget 2024 and Beyond - Part I

August 26, 2024

Renewable Roadmap: Budget 2024 and Beyond - Part II

August 26, 2024

NDA Connect

Connect with us at events, conferences and seminars.

NDA Hotline

[Click here to view Hotline archives.](#)

Video

"Investment return is not enough" Nishith Desai with Nikunj Dalmia (ET Now) at FI8 event in Riyadh

October 31, 2024

Analysing SEBI's Consultation Paper on Simplification of registration for FPIs

September 26, 2024

