

Disciplinary Proceedings-- Important Judgements

(Note- To view the judgement please click on "Names of Parties")

Sr. No.	Topic	Names of parties	Citation	Law laid down / Point settled
1	Natural Justice	State Bank of Patiala v/s S.K.Sharma	AIR 1996 SC1669	Procedural violations causing prejudice to employee only(not all) vitiate the inquiry.
2	Reasonable Opportunity	Khemchand v/s Union of India	AIR 1958 SC 300	Reasonable opportunity means 1) Opportunity to deny the guilt & prove innocence. 2) To defend by cross examining the witnesses of the disciplinary authority & examine the witnesses on his behalf and produce evidence.
3	Criminal Proceedings and Disciplinary Proceedings	State of Rajasthan v/s B.K.Meena	AIR 1997 SC 13	No legal bar to conduct criminal proceedings and disciplinary proceedings simultaneously.
4	Judicial Review of Disciplinary Proceedings	B.C.Chaturvedi v/s Union Of India Apparel Export Promotion council v/s A.K. Chopra	AIR 1996 SC 484	Judicial review is not a review of decision but review of manner in which decision is made.Powers of administrative tribunals. 1) Disciplinary authority is the sole judge of facts. 2) Appellate authority can reappraise the evidence & not the High Courts and Tribunals.
5	Sexual harassment at workplace	Vishakha V/S state of Rajasthan	AIR 1997 Sc 3011	1) Sexual harassment at workplace is violative of Articles, 14, 19 and 21 of the Constitution. 2) Definition of sexual harassment. 3) Action by Departments & Head of deptt. to prevent S.H.

6	Imposing punishment not provided in Rules	Vijay Singh V/S State of U. P.	Supreme Court	The Disciplinary Authority cannot impose the punishment not provided in rules as a result of departmental inquiry.
7	Suspension of A.I.S. Officer on account of criminal charge	State of Maharashtra v/s A.K.Jain	Bombay High Court	Suspension of A.I.S. officer under Rule 3(3) of A.I.S. (Discipline & Appeals) Rules 1969 is to continue till termination of criminal proceedings. Review of suspension not warranted by Rules.
8	Invalidating of caste certificate after lapse of 9 years-benefits of caste given cannot be withdrawn but new benefits no more	Dattu Thakur v/s State of Maharashtra and others	Supreme court	Invalidation of caste certificate after 9 years -No sound reasons for delay-benefits of caste given cannot be withdrawn but new benefits not to be given
9	Interference by High Courts while considering relief under Article 226	Vijay Kumar Kaul V/S Union Of India	Civil Appeal 4986-4989 of 2007	Courts to exercise discretion to interfere in cases where parties approach expeditiously for relief by filing writ under Art. 226
10	Parameters for Deciding the Tribe Claims by the Caste Scrutiny Committee	Anand V/S Committee for Scrutiny & Verification of Tribe Claims	AIR 2012 SC 314	Parameters laid down for the guidance of The Caste Scrutiny Committee for deciding the Tribe claims
11	Recovery of Excess payment of emoluments/ allowances to Government employee	Sayed Abdul Kadir and others V/S State Of Bihar		No recovery if excess payment made not on account of fraud/ misrepresentation by the employee and because of application of wrong principle or mis interpretation of rule/ order
12	Disciplinary Action against judicial Officers	Union Of India V/ S . Parmeswaran	Madras High Court	No disciplinary Proceedings against the officers of subordinate judiciary can be initiated merely because the judgements/ orders passed by them are wrong

<u>13</u>	<u>Opportunity to delinquent employee in case the disciplinary officer differs with findings of Inquiry Officer</u>	<u>Yoginath Bagde V/S State of Maharashtra</u>	<u>AIR 1999 SC 3734</u>	<u>In case the disciplinary authority differs with the findings of Inquiry Officer which are favorable to employee, the D.A. will have to communicate tentative findings with the reasons to the employee and give him an opportunity to give his say and then only appropriate order can be passed. Denial of such opportunity amounts to violation of principles of justice.</u>
<u>14</u>	<u>Recommendation of the High Court in case of punishment or disciplinary action against the judicial officer is binding on the Governor of the State who is appointing authority.</u>	<u>Samsher Singh V/S State Of Punjab</u>	<u>1974 AIR 2192</u>	<u>The recommendation of the High Court as regards punishment to judicial officer or otherwise is binding on the Governor Of the State</u>
<u>15</u>	<u>Guidelines for initiating disciplinary action against judicial officer</u>	<u>Union of India V/S K.K.Dhavan</u>	<u>1993 AIR 1478</u>	<u>In what circumstances the disciplinary action can be initiated against the judicial officer</u>
<u>16</u>	<u>Consultation with Public service Commission in case of punishment to judicial officer</u>	<u>State of Haryana V/S Inder Prakash Anand</u>	<u>1976 AIR 1841</u>	<u>In case of punishment to judicial officer as recommended by High court, Public service commission is not to be consulted, as required in case of other state government employees as provided in respective Service Rules.</u>
<u>19</u>	<u>Claiming promotion (Denied) after retirements</u>	<u>Joseph John V/S Aquinos College, Cochin</u>	<u>Kerala High Court</u>	<u>Employee can claim denied promotion even after retirement with monetary benefits</u>

<u>20</u>	<u>Suspension of an employee</u>	<u>State of Orissa v/s Bimal Kumar Mohanty</u>	<u>AIR 1994 SC 2296</u>	<p>1) <u>Suspension is not a punishment</u></p> <p>2) <u>Suspension should be ordered considering the gravity of the alleged misconduct.prima facie evidence and on application of mind . It should not be administrative routine to suspend an employee in every case.The order of suspension</u></p>
<u>21</u>	<u>Ordering a fresh / denovo inquiry</u>	<u>K.R.Deb v/ s Collector of Central Exercise</u>	<u>AIR 1974 SC 1447</u>	<u>Ordering a fresh / denovo inquiry just because the Disciplinary authority is not satisfied with the findings of Inquiry officer is illegal.</u>
<u>22</u>	<u>Attachment or seizure of pension of employee</u>	<u>Union of India v/s Wing commander R.R.Hingorani</u>	<u>(1987) 1 SCC 551</u>	<u>No pension granted to an employee will be liable to attachment. seizure by process of any court at the instance of a creditor.</u>
<u>23</u>	<u>Promotion a fundamental Right</u>	<u>Maj Gen H.M.Singh v/s Union of India</u>	<u>supreme court judgement delivered on 9 th Jan 2014</u>	<u>the non-consideration of the claim of the employee/ appellant eligible and found fit for promotion would violate the fundamental rights vested in him under Articles 14 and 16 of the Constitution of India. subject to the condition, that the employers / respondents were desirous of filling the vacancy of the promotional post .</u>
<u>24</u>	<u>Promotion during pending Departmental or Criminal proceedings</u>	<u>Union Of India v/s K.V.Jankiraman</u>	<u>1991 AIR 2010</u>	<u>Sealed cover procedure to be adopted when charge sheet is issued not earlier.Employee has no right of promotion but only to be considered for promotion.</u>

<u>25</u>	<u>Continuance of Disciplinary Proceedings against a dismissed employee.</u>	<u>State of Maharashtra</u> <u>v/s</u> <u>Vijay Kumar</u> <u>Agarwal</u>	<u>C.A.1020-1021/2014 @ SLP(C) No.2920-2921/2014 @ CC No. 17498-17499/2013</u>	<u>The disciplinary proceedings cannot be continued against a dismissed employee and therefore be kept in abeyance. If the order of dismissal is set aside, the relationship of employer- employee gets restored and the disciplinary proceedings be revived and finalized as per law."</u>
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