SELECTED CASE LAWS

In the case of Associated Cement Co. Ltd. V Workmen, (1963 IILLJ 396 SC) the Supreme Court laid down the following rules of evidence directing that violation of the said rules shall render the enquiry unfair and vitiated.

(a) When the defence taken by the workman and his witnesses is inconsistent with some circumstance or documentary evidence of record, they should be asked to explain the apparent inconsistency and their defence should not be rejected on the ground of inconsistency.

(b) Any evidence given by the witnesses in some other proceedings is inadmissible. If that evidence is to be used, the workman must be given an opportunity to cross examine them.

In the case of State of Haryana and another V Rattan Singh (1982 ILLJ 46 SC), the bench of three judges of the Supreme Court held that "It is well settled that in a domestic enquiry, strict and sophisticated rules of evidence under the Evidence Act may not apply. All materials which are logically probative for a prudent mind are permissible. There is no allergy to hearsay evidence provided; it has reasonable nexus and credibility. It is true that departmental authorities and administrative tribunals must be careful in evaluating such materials and should not glibly rely on what is strictly speaking not relevant under the Indian Evidence Act. The essentials of judicial approach are objectivity, exclusion of extraneous matters of considerations and observance of rules of natural justice.

Of course fair play is the basis and if perversity of arbitrariness, bias or surrender of independence of judgment, vitiate the conclusions reached, such finding even though of a domestic tribunal cannot be held good. There is a clear violation of the cannons of fair play and natural justice if the enquiry officer takes on the role of a witness in addition to his own and gives evidence as a witness and then takes over against as the enquiry officer. Such an illegality vitiates the enquiry and renders the order of dismissal bad in law - **Andhra Scientific Co. Ltd. V. Seshagiri Rao** (1951 IILLJ 117 SC)

In **Ramlal V. Union of India** (AIR 1962 Raj 57), the watchman Ramlal, in reply to the charge-sheet craved mercy on the ground that this was the first occurrence during his service for eleven years, pointing out at the same time the difficulties of a watchman escorting the train at night in detecting a preplanned theft of goods carried by rail on the track. He was dismissed from service without formal enquiry on the ground that it was admission of guilt with a conditional apology. Their Lordships set aside the order of dismissal observing that when it was "Not a clear and unambiguous admission of guilt, the employer should have held a formal enquiry, before dismissing the watchman".

It is true that neither a permanent employee nor a probationer can be punished without a formal charge and enquiry. But in case of probationer, a less formal enquiry may be sufficient. **Bishanlal Gupta V. State of Haryana & Others** (1978 ILLJ 317 SC)

A domestic enquiry proceeded against a workman after serving of charge-sheet on him, but at a particular stage, the workman withdrew from the enquiry. Consequently, without even completing the enquiry ex-parte, in the manner prescribed by the standing orders, the employer dismissed the workman from service for alleged misconduct. Adjudicating upon the industrial dispute, arising out of the dismissal without completing the domestic enquiry in accordance with the relevant provisions of the standing orders was invalid.

Affirming the view of the Labour Court in appeal, the Supreme Court observed that, the fact that the workman withdrew from the enquiry at an early stage did not absolve the enquiry officer from concluding the enquiry by taking evidence ex-parte. **Imperial Taboacco Co. of India V. its Workmen** (1961 IILLJ 414 SC: AIR 1962 SC 1348)

In the case of **M.C. Dhir V. State of Punjab**, (1982 Oct. lab IC NOC 117) (Punjab & Haryana) the petitioner employee of the State of Punjab was suspended pending completion of the department proceedings, but as his age of retirement came just after the suspension he was allowed to retire and so the suspension order was revoked.

But, one and half years after his retirement, the case was reopened under **Rule 2.2 (b) of the Punjab Civil Services** (punishment & appeal rules, 1970) and a disciplinary proceeding was initiated against the retired employee. Held that initiation of disciplinary proceedings against the employee after his retirement was wholly without jurisdiction - **Supreme Court Decision** (1970 Lab IC 271 SC)

Where witnesses in support of the charge are not at all examined during the enquiry and the workman charged is only asked to put questions to the witnesses without even furnishing him with a copy of previously recorded statements, held the enquiry is not fair - **Phulbari Tea Estate V. Workmen** (1969 IILLJ 663 SC 1960 ISCR 32)

Workmen are charged with active participation in an act of misconduct. Held, misconduct must be proved against each workman before each of them can be held guilty. The theory of conspiracy has no application for activities of the union which represents them - **Punjab National Bank Ltd. V. Workmen** (AIR 1960 SC 160)

In C.L. **Subramaniam V. Collector of Customs** (AIR 1972 SC 2118) the Supreme Court observed that the fact that the case against the delinquent employee was being handled by a trained prosecutor was a good ground for allowing the appellant to engage a legal practitioner to defend him lest the scales be tilted against him.

In the case of **Board of Trustees for the Port of Bombay V. D.R. Nadkarni and others** (1983 ILLJ SC), on the question of the claim of the charge-sheeted workmen to be represented by a legal practitioner, the Supreme Court held that where the employer has on its pay-roll Labour Officer, Legal Advisers and lawyers in the garb of employees and they are appointed as presenting cum prosecuting officers, the enquiry officer should, unless the rules prescribed for such enquiry place an embargo on the right of the employee to be presented by a legal practitioner, in his discretion permit the employee to appear through a legal practitioner.

He would however do so considering the nature of charges and issues which may arise in course of the enquiry. Where legally trained minds represent the employer in the domestic enquiry, and the enquiry officer is a man of employer's establishment, the weighted scales and titled balance can be partly restore if the delinquent is given the same legal assistance as the employer has employed.

In the case of **A.J. Vaswani V. Union of India (1983, April Lab IC 625, per J. Gose & Pyne)**, the Calcutta High Court found that the appellant Sri Vaswani, a preventive officer under the collector of customs (Under suspension) during the departmental enquiry against his prayed for representation through a lawyer but the prayer was not allowed.

The department had an experienced Police inspector to present its case before the enquiry officer. No government servant agreed to represent the delinquent officer in the enquiry because top officials who were witnesses in the enquiry had to be cross-examined. There were legal and factual complexities. Further, legal issues were involved in the case. Besides, the delinquent was not fit in body and mind since long suspension had affected his health and mind. Considering all factors, the High Court held that the above facts and circumstances were good grounds justifying a permission to the delinquent to be represented by a legal practitioner.

The strict technical rules of procedure of the Indian Evidence Act do not apply to the adjudicatory proceedings before the adjudicatory authorities under the Industrial Disputes Act, much less would they apply to domestic enquires, **Central Bank of India V. Prakash Chand Jain**, (1969, II LLJ 377/382 SC)

However, the substantive rules, which would form part of principles of natural justice cannot be ignored by domestic tribunals - **Central Bank of India V. Prakash Chand Jain**, (1969, II LLJ 377/382 SC)

In **Shadilal V. State of Punjab**, AIR 1973 SC 1124, the Supreme Court observed that the application of the principles of natural justice is not a question of observance of a formula. In essence, it is meant to assure that the party concerned has an opportunity of being heard. Whether in a particular case it has been violated or not will depend on the facts and circumstances of the case. It cannot be said that there will be infraction of the principles of natural justice unless procedures of the courts are observed.

The Industrial Tribunal is not hampered by strict rules of evidence of pleading or technicalities of procedure. It can collect information which has any hearing or relevance in determining the issue raised before it - **Hiralal Sada Shiv Rao V. State Industrial Court**, (1967, I LLJ 168 Bom.(DB))

The admission by the tribunal of evidence after the case has been fully argued, even without notice to the other side, may be justified in certain circumstances - **Khardah & Co. Ltd. V. Its Workmen**, (1963, II LLJ 452, SC)

Although the strict rules of evidence applicable to a civil court do not bind the Industrial Tribunal, yet it cannot refuse a party an opportunity to place all the relevant evidence on the point in an issue. A finding otherwise given will be vitiated - **Western India Match Co. Limited V. Industrial Tribunal**, AIR 1958 MAD 398 DB: ILR 1958 MAD 672.

In **Associated Cement Co. Ltd. V. Their Workmen**, (1963, II LLJ 396 SC), the Supreme Court laid down the following rules of evidence for observance in the domestic enquiry:

(i) If the evidence adduced by the workman and his witnesses is inconsistent with some circumstances or documentary evidence on record, their attention must be drawn to it so as to enable them to explain the apparent inconsistency the defence version should not be rejected on account of the adverse circumstances.

(ii) Any evidence given by witnesses in some other Proceedings is inadmissible. If that evidence is to be used, the witnesses must be examined again and the workman must be given an opportunity to cross-examine them.

In the case of **T.R. Murthy V. Divisional Manager, United India Insurance Company Ltd.** (1982, November Lab IC 1745 AP), a disciplinary enquiry was started against an employee on the charge of producing false medical bills for disbursement. The charge was based on the medical certificate produced in support of medical expenses.

The Andhra Pradesh High Court held that the doctor was the only appropriate person to speak about the circumstances in which he gave certificate and thereafter withdrew it. Had the doctor been produced, the delinquent could have the opportunity of cross-examining him to elicit facts and circumstances to belie the version of the doctor. The gulf of lacunae was sought to be filled up by adducing as witness two officers to whom the doctor had narrated his version. The endorsement of the doctor was sought to be proved by them. Failure to examine the doctor who was a material witness to prove the charge vitiated the proceedings.

Reasonable Opportunity:

The requirement that reasonable opportunity of being heard must be given has two elements. The first in that opportunity to be heard must be given; the second is that this opportunity must be reasonable. Both these matters are justifiable and it is for the tribunal to decide whether an opportunity has been given and whether that opportunity has been reasonable - **Fodco (P) Ltd. V. S M Bilgrani,** AIR 1960 SC 418/419, per **Das Gupta J.**

In the case of **Motor Industries Co. Ltd. V. D Adinarayanappa and another**, (1978, I LLJ 443 Karn), the issue before His Lordship was whether a domestic enquiry held by the management which is valid in all respects is invalid on the ground that before holding the enquiry, an opportunity of answering the charges should have been given to the delinquent employee.

Held, informing the delinquent employee of the specific charges leveled against him in writing and giving him an opportunity to defend himself in an enquiry, fulfills the requirement of the principles of natural justice and it is not a necessary requirement of the principles of natural justice that before holding an enquiry, and earlier opportunity of furnishing reply to the charges should be given to the delinquent.

The basic requirement of a fair opportunity is that enquiry must be conducted honestly and bonafide with a view to determining whether the charge framed against a particular employee is proved or not, and therefore care must be taken to see that the enquiry does not become an empty formality - **Associated Cement Co. Ltd. V. Their Workmen**, (1963, II LLJ 396 SC, per **Gajendragadkar, J.**

It is an elementary principle that a person who is required to answer a charge must know not only the accusation but also the testimony by which the accusation is supported. He must be given a fair chance to hear the evidence in support of the charge and to put such relevant questions by way of cross examination - **Mesngles Tea Estate V. Their Workmen**, (1963 II LLJ 392 SC, per **Hidayatulla, J**)

Principles of natural justice - Dismissal on ground of misconduct - From the Post of Assistant Provost - For which no extra allowance or remuneration is payable - Post is adjunct to public office - any allegation of misconduct is likely to reflect on his image - He is entitled to get an opportunity of hearing before such action.

Case: Dr. Mahabir Sarna Dass Jaiswal V. State of U.P. and others. (Writ petition No 2963 of 1990, July 19, 1990)

Any allegation of misconduct concerning the adjunct office is likely to have reflection on the image of the incumbent as holder of public office. Accordingly, the allegation of ‘misconduct towards the Principal’ is likely to have prejudicial effect on the service career of the petitioner as Reader in King George’s Medical College, Readership in King George’s Medical College is a public office. The petitioner is in the employment of U.P. Government. Since the allegation of misconduct is likely to affect petitioner’s service career as a public servant, we are of the opinion, that the petitioner was entitled to opportunity of hearing before being condemned as an indisciplined person.

The Rules of natural justice are not embodied rules. Therefore, coming to the conclusion, that any particular procedure adopted is contravening the principles of natural justice, the court must be satisfied that the procedure adopted was not conductive to reach a just decision.

Police Constable was charge-sheeted after eighteen months for absence on one occasion and for coming late to the parade on another occasion and removed from service subsequently.

Held, that the delay must be considered fatal from the point of view of reasonable opportunity to the employee to show cause against the charge leveled against him.

It would be asking for the impossible to expect the employee to explain factually the reasons which occasioned the delay - (1980, I LLJ 260, GUJ)

Disciplinary Proceedings - initiated against employee - On charge of assault of another employee of same concern - At the dispensary of ESI Hospital - Outside of the establishment - Such act of assault by itself does not become an act subversive of discipline.

Case : The Kolhapur Zilla Shetkari Vinkari Sahakari Soot Girani Ltd. V. Ramchandra Shankar Shinde and another (Writ petition No. 4329 of 1984, Feb. 20, 1990, Bombay High Court).

If two employees of a common employer fight away from the establishment or if any one employee assault another, outside the establishment that by itself does not become an act subversive a discipline. Even if there is reference to the work place or what the other employee is supposed to have done will not necessarily involve the question of discipline. If such assault takes place within the premises of the employer then per se there may be a presumption that it affects the other workmen and the question of breach of discipline may be assumed of implied.

This is a personal grievance although it may be connected with the work of the employee. Unless the employees are connected directly with the assault cannot, in my opinion, be regarded as having causal connection with acts subversive of discipline when such assault or threats takes place away from the premises of the establishment.

In connection with a disciplinary proceeding against a Govt. Servant, charge memos were served on him in 1958, 1964 and 1966 on same charges but no action was taken on them. Meanwhile the concerned officer was promoted. In 1971, another charge memo was served on him and there was an order for recovery of money from him.

Held that the order cannot be sustained due to delay of thirteen years. The delay leads to the inference that the charges framed in October 1958 and repeated in 1964 and 1966 have been abandoned –

P.F.George V. State of T. Nadu & another, (1980 ILLJ 513 MADRAS)

Disciplinary Proceedings - Not barred just because a criminal proceeding is pending on some charges - Rule providing dismissal on conviction - Does not support the contention that disciplinary proceedings must wait the decision of Criminal Proceedings.

Per Nainar Sundaram and Swamidurai, JJ. - The settled view is that even though there could have been an acquittal in the criminal proceedings, still prosecution of disciplinary proceedings would not be barred. Departmental proceedings can be taken even after the original case too initiated in respect of identical charge, which might have ended in acquittal.

The principle to a very great extent indicates that departmental proceedings have got an independent angle of testing the charges leveled therein and they have got to be viewed from independent standard and the decision in favour of the employee in the criminal proceedings need not necessarily stand in the way of prosecution the disciplinary proceedings against him.

It would be a different matter if the service rules or regulations lay down a contrary position. In such a case, the service rules or regulations will certainly govern. There could also be a service rule or a regulation, interdicting the prosecution at parallel level, the disciplinary proceedings, along with the criminal proceedings. In such a contingency also such a service or rule or regulation has to govern.

Disciplinary Proceedings - Against the petitioner - Initiated on the last day of his service - Could not be continued after the retirement - The charge memo filed after retirement, enquiry conducted thereon and the final orders passed have to be quashed.

Enquiry officers are not courts and, therefore, they are not bound to follow the procedure prescribed by the Trial Courts nor are they bound by strict rules of evidence. Their only obligations are those which the law casts on them. Namely; they should not take any action on information which they receive, unless they put it to the party against whom it is to be used and give him a fair opportunity to explain it - **State of Mysore V. Shivabasappa Shivappa**, (1964 ILLJ SC, per Venkatrama Ayyar)

But the principle that a fact sought to be proved must be supported by statements made in the presence of the person against whom the enquiry is held and that statements made behind the back of the person charged are not to be treated as substantive evidence, is one of the basic principles which cannot be ignored on the mere ground that domestic tribunals are not bound by the technical rules contained in the Evidence Act - **Central Bank of India Ltd. V. Prakash Chand Jain** (1969 IILLJ 377 SC, per Bhargava,j.)

A workman who is to answer a charge must not only know the accusation but also the testimony by which the accusation is supported. For instance, if a document is relied upon by a witness and also by the enquiry officer in his finding, it must be made available to the workman before he is called upon to the Industrial Tribunal. (1966 IILLJ 282, per B.N. Banerji)

In the case of **Tata Iron & Steel Co. V. Central Govt. Industrial Tribunal** (1966 IILLJ 749 Pat), it was held that withholding of important piece of evidence namely, documents, reports, etc., which have bearing on the charges from the persons charged are sufficient grounds to show that the principles of natural justice have been violated in the domestic enquiry.

If the findings of the enquiry are based on reports given by the superior officers but, such reports are not made available to the concerned workmen nor are the officers made available for cross examination, the enquiry would not be fair and proper **Sur Enamel & Stamping Work Ltd. V. their Workmen**, (1963 IILLJ 361 SC per Das Gupta J.)

It is well settled principle that a document or piece of evidence not included in the memorandum of charges and not disclosed to the party charged cannot be made the foundation of the findings against the delinquent. Such a procedure militates against the principle of natural justice and would vitiate the proceedings - **G.S. Sial V. President of India and others**, (1981 Lab IC 59 All)

If a charge-sheeted workman requests the enquiry officer to order the management to produce two officers just for cross examination and not as defence witness, the enquiry officer is justified to reject the request. He cannot compel the company to produce the officers - **Ruston & Hornsby Pvt. Ltd. V. T.B. Kadam**, (1975 IILLJ 352)

The workman is entitled to reasonable time to prepare and adduce defence in a domestic enquiry. When a workman is asked to present his defence in an hour, held there was failure of natural justice and the domestic enquiry was bad - **Delhi Cloth and General Mill Co. V. Thejvir Singh**, (1972 ILLJ 201)

The duty to produce the defence witnesses is on the workman charged and not on the enquiry officer - **SBI V. Jain** (1971 ILLJ 599)

There is a two-fold test to identify **Perversity of a Finding.** The first test is that, the finding is not supported by any legal evidence at all and the other test is that, on the basis of the material on record, no reasonable person could have arrived at the finding complained of - **Central Bank of India V. Prakash Chand Jain**, (1969 IILLJ 377 SC)

Petitioner was dismissed not on charge served on him but on the other facts and circumstances which were never disclosed to him. As he had no opportunity to meet those charges, it was held that, there had been a failure of the principles of natural justice.

-Raghabans V. State of Bihar, (AIR 1957 Pat. 100)

In the case of **State of Punjab V. Bakhtawar Singh**, (1972 4 SC 73) it was held that, when the dismissal order was passed considering cumulative effect of the lapses of the charge-sheeted employee, the order is not maintainable, because previous lapses were discharged during the enquiry.

Where the order of dismissal merely states that from the material on file the authority is of opinion that he is not fit to be retained in service and so he should be removed. It was held that, the order cannot be upheld since it is not a speaking order and so an arbitrary order.

- State of Punjab V. Bakhtawar Singh (1972 4 SC 730)

Different Kinds of Punishments

Different kinds of punishments enumerated above are dealt with in detail as follows:

(a) **Warning:** Warning is a minor punishment. It has to be administered in writing. In the case of **Sankar Pillai V. Kerala State,** (1950 ILLJ 621 KER) it was held that, warning should be administered after obtaining explanation from the workman about the act or omission alleged. The procedure to be adopted for administering warning needs not be as elaborate as that for discharge or dismissal.

In the case of **Madhavan V. Commissioner of Income Tax** (1983 IILLJ 356) the question arose before the Kerala High Court, whether a departmental promotion committee can take into consideration a warning given to an employee in considering him for promotion. It was held that, a censure inflicted as a regular penalty cannot have the effect of automatically postponing the employee's promotion. It is difficult to see how a warning which is not even a punishment and which is not given in accordance with the principles of natural justice can stand on a better or stronger footing in the matter of preventing an employee's promotion.

(b) **Fine:** Fine is a pecuniary punishment inflicted by the employer on the employee for certain act or omission. There may be provision in standing orders for imposition of fine. However the power to impose fine is subject to the provision of Sec.8 of the Payment of Wages Act.

(c) **Withholding Increment:** In the case of graded scales, increments are automatic till the stage of efficiency bar is reached. With-holding of increment before the stage of efficiency bar is reached is punishment. Such punishment can be inflicted only when a charge of inefficiency or misconduct has been proved - **Rashiklal Nandlal V. Bank of Baroda** (1956 ILLJ 103 Lat.)

(d) **Suspension as Punishment :** Suspension as punishment can be inflicted on a workman for a specified period under contract of service or the standing orders after the workman is found guilty of misconduct committed by him- **Ramnaresh Kumar V. State of West Bengal**, (1958 ILLJ 567, 571 CAL.DB.) Suspension pending enquiry cannot be regarded as punishment for, punishment presupposes the commission of an offence and till the offence is proved to the satisfaction of the management, suspension pending enquiry cannot be considered to be punishment - (1954 LAT 79).

Punishment of suspension would not be tantamount to lockout defined in sec. 2 (i) of the Industrial Disputes Act. The effect of suspension is that the relationship of the master and servant is temporarily suspended with the consequence that the servant is not bound to render the service and the master is not bound to pay - **Balvantary Ratilal Patil V. State of Maharashtra**, (1968) II LLJ 700, 703 (SC)

(e) **Retrospective Suspension:** In the case of **Nepal Chandra Guchit V. District magistrate**, (1966, IILLJ 71 Calcutta), the Calcutta High Court held that suspension like other punishments like discharge or dismissal with retrospective effect is illegal and invalid.

In the case of **Hemarnt Kumar Bhattacharya V. S.N. Mukherjee**, AIR 1954, Calcutta 340 (DB), the Calcutta High Court held that where an order of suspension can be split into two periods of time, one retrospective and the other prospective, and the retrospective part can be severed from the prospective part, the retrospective part would be invalid and the prospective part would be perfectly valid and shall operate upon its own strength.

(f) **Demotion:** An employee is said to be demoted when he is downgraded from the present job and is reduced to a lower cadre of service. This punishment is somewhat analogous to “reduction in rank” as envisaged by Article 311 of the Constitution. The procedure to be followed for administering this punishment is the same as in the case of discharge or dismissal.

In the case of **National Engineering Employees Union V. R.N. Kulkarni**, (1968) IILLJ 82 Bombay (DB), the employer terminated the service of the employee but considering the past record, offered him a job on same salary and fixed a date for his exercising option for the job. The employee did not exercise the option. The labour court held that the order of termination was in fact an order of demotion and ordered further enquiry on the question whether the order was mollified. The High Court observed that as the employee did not avail himself of the option, his services had ended after the appointed date of exercising the option. Hence the order is not the order of demotion but was an actual termination of service.

(g) **Discharge:** Discharge like dismissal put an end to the contract of service and severs the relationship of employer and employee. In case discharge the contract of service is terminated with effect from a particular date but he does not lose the benefit acquiring up to that date - **Calcutta Chemical Co. Ltd. V. D.K. Burman**, (1969) Lab IC 1948, 1506 (Pat) (DB).

In the case of **Workman of Containers and Closers Ltd. V. First Labour Court**, (1962) I LLJ 471 (Cal), the Calcutta High Court observed "It is well settled that there can be no discharge or dismissal made with retrospective effect" Such dismissal cannot be sustained in law. However, a dismissal with retrospective effect is within the competence of the employer if the terms of service either contractual (Standing Orders) or Statutory permits such dismissal with retrospective effect.

The employer need not assign any reason for discharging a probationer. The fact that certain reasons given by the employer did not appeal to the Industrial Tribunal it could not take away or detract from such right. The Industrial Tribunal could not sit over the judgement of the employer to absorb the probationer - **Caltex India Ltd. V. Second Industrial Tribunal**, W.B., (1963) I LLJ 156 Calcutta

Where a workman was dismissed from service by the employer having been adjudged guilty of three charges of misconduct, but the Tribunal quashed the order of dismissal holding that dismissal was improper because two of the three charges were not sustainable, the High Court in disposing the write of appeal, agreed with the tribunal and upheld its award - **Royal Printing Workers V. Industrial Tribunal**, (1963) II LLJ 60 Madras

The word **victimisation** has not been defined in the statute. The term was considered by the Supreme Court in the case of **Bharat Bank Ltd. V. Employees** reported in AIR 1950 SC 188.

The court observed: “It (victimisation) is an ordinary English word which means that a certain person has become a victim, in other words that he has been unjustly dealt with”.

When, however, the word ‘victimisation’ can be interpreted in two different ways, the interpretation which is in favour of the labour should be accepted as they are the poorer section.

Where an employee’s services are terminated on mere suspicion of the police, without independent consideration of the matter by the employer and the termination did not appear to be within the Standing Orders, the termination is definitely under colourable exercise of power.

So the labour court is competent to enquire whether the termination was permitted by provisions of the Standing Order - **Indian Copper Corporation Ltd. V. State of Bihar**, (1970) II LLJ 492 (1971 Lab IC 137 Pat (DB)

An employee who had incurred displeasure of the employer was dismissed for sleeping during duty hours. Two other employees who committed the same offence were only warned. Held such a case falls within the ambit of tribunal’s power of interference - **South Kojama Colliery V. Presiding Officer**, AIR 1965 Pat 386 (DB)