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## India

### Regular Departmental Enquiry not Necessary where Employee Has Admitted Misconduct

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Where an employee has admitted to an act of misconduct, it will not be unlawful for their employer to impose a penalty upon the employee without the employer conducting an internal disciplinary enquiry into whether the misconduct occurred, the Supreme Court of India ("Supreme Court") has recently held.<sup>1</sup>

While there is no statutory requirement in India to conduct an internal enquiry in cases of misconduct, the courts in India have previously held that a dismissal on grounds of 'misconduct' must be preceded by a just, fair and reasonable inquiry into the occurrence of the misconduct.<sup>2</sup> It is a fundamental rule of law that no decision must be taken which affects the right of any person, without the person first being informed of the case against them and being given an opportunity of putting forward their case, in accordance with the principles of natural justice.

However, the Supreme Court held that these requirements do not apply where the employee has admitted the misconduct.

The case arose out of a petition filed on behalf of the Kendriya Vidyalaya Sangathan school in Tura in the State of Meghalaya, against a decision rendered by the High Court of Judicature at Bilaspur,<sup>3</sup> reinstating a school employee who had forcefully entered the office of the principal in an inebriated condition on the basis that the penalty imposed by the employer was disproportionate to the nature and gravity of his misconduct.

The Supreme Court found on the basis of various precedents<sup>4</sup> that the principle of proportionality of penalty applied only when the penalty imposed by the employer is so disproportionate (taking into account factors such as the nature and gravity of the charge, the past conduct of the employee, previous penalties (if any), the responsibilities of the employee and the place of work) that it shocks the conscience of the court and the court is forced to believe that the penalty is totally unreasonable and arbitrary.

Applying these principles, the Supreme Court observed that the alleged act of the employee constituted a serious misconduct, particularly in view of the fact that the place of work was not a commercial establishment but a school, such that the termination of employment of the employee was justified even in the absence of an internal enquiry.

<sup>1</sup>*Deputy Commissioner, KVS and Others v. J. Hussain* 2013 LLR 1174.

<sup>2</sup>*D.K. Yadav v. J.M.A. Industries* JT1993(3)SC617.

<sup>3</sup>W.P. No. 162 of 2004.

<sup>4</sup>*Union Territory of Dadra & Nagar Haveli v. Gulabhia M Lad (2010) 5 SCC 775; Ranjit Thakur v. Union of India, (1987) 4 SCC 611.*

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