Chennai Metropolitan Water ... vs T.T. Murali Babu on 10 February, 2014

Equivalent citations: AIR 2014 SUPREME COURT 1141, 2014 (4) SCC 108, 2014 AIR SCW 1142, 2014 LAB IC 1256, (2014) 2 SERVLJ 26, (2014) 141 FACLR 772, (2014) 2 MAD LW 845, (2014) 2 SCT 193, (2014) 2 ALLMR 900 (SC), (2014) 2 KCCR 122, (2014) 3 ADJ 1 (SC), (2014) 3 SERVLR 398, 2014 (2) ALLMR 900, 2014 (2) SCALE 163, (2014) 1 LAB LN 559, (2014) 2 MAD LJ 369, (2014) 2 SCALE 163, (2014) 1 ESC 35, (2014) 1 CURLR 673

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Bench: Dipak Misra, H.L. Gokhale

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 1941 OF 2014
(Arising out of S.L.P. (C) No. 15530 of 2013)

Chennai Metropolitan Water Supply
and Sewerage Board and others … Appellants

Versus

T.T. Murali Babu …Respondent

J U D G M E N T

Dipak Misra, J.

Leave granted.

2. The present appeal, by special leave, is directed against the judgment and order dated 22.11.2012 passed by the High Court of Judicature at Madras in Writ Appeal No. 2531 of 2012 whereby the Division Bench has affirmed the judgment and order dated 21.7.2011 in W.P. No. 25673 of 2007 whereunder the learned single Judge had allowed the writ petition, and after setting aside the punishment of dismissal, directed reinstatement of the respondent with continuity of service but without back wages.

3. Bereft of unnecessary details, the expose' of facts that have been undraped are that the respondent was appointed as a Surveyor in Chennai Metropolitan Water Supply and Sewerage Board (for short, "CMWSSB") and subsequently promoted as Junior Engineer in 1989. From 28.8.1995 he remained continuously absent from duty without any intimation to the employer and did not respond to the repeated memoranda/reminders requiring him to explain his unauthorized absence from duty and to rejoin duty. On 1.4.1997 he reported to duty with the medical certificate for his absence from duty for the period commencing 28.8.1995 to 31.3.1997. As he had already remained unauthorisedly absent and did not respond to the memos by offering an explanation, a charge-sheet had already been issued on 11.9.1996 under the Chennai Metropolitan Water Supply and Sewerage Board Employees (Discipline and Appeal) Regulations, 1978 (for brevity "the Regulations"). The charge memo contained two charges, namely, that the respondent-herein had failed to submit an explanation to the first charge memo dated 11.10.1995 inspite of reminders and second, he deserted his post by remaining unauthorisedly absent from duty from 28.8.1995, and thereby committed misconduct under Regulations 6(1) and 6(2) respectively of the Regulations. Be it noted, though the charge memo was duly acknowledged by the respondent on 19.11.1996, yet he chose not to submit his explanation till 6.1.1997, much after the charge- sheet was issued.

4. As the factual matrix would further uncurtain, an enquiry was conducted against the respondent and his explanation in the enquiry was that he could not attend to the duties and could not give explanation to the first charge memo because of ill health. The enquiry officer found charges were proved and, accordingly, submitted the enquiry report which was accepted by the disciplinary authority and after following the due procedure punishment of dismissal was passed on 16.4.1998. In the order of dismissal disciplinary authority observed that belated submission of medical certificate on 1.4.1997 irresistibly led to the conclusion that the respondent employee was unauthorisedly absent from 28.8.1995. A conclusion was also arrived at that the first charge, namely, that he had not responded to the letters and reminders, also stood proved. Being of this view, the disciplinary authority thought it apt to impose the punishment of dismissal from service and he did so.

5. On an appeal being preferred by the respondent the Board rejected the appeal dated 30.6.1998. Being dissatisfied by the order of dismissal and the affirmation thereof in appeal, the respondent preferred W.P. No. 15272 of 1998. The learned Single Judge, by order dated 12.3.2003, directed re-consideration of the appeal solely on the ground that the Managing Director who was the disciplinary authority had taken part in the proceedings of the Board which decided the appeal. After the said order came to be passed, the matter was again placed before the Board and the appellate authority, considering the enquiry report, the evidence brought on record and after due discussion, affirmed the order of disciplinary authority and consequently dismissed the appeal on

1.7.2003.

6. The grievance of re-affirmation of the order of dismissal was agitated by the respondent in W.P. No. 25673 of 2007 which was preferred on 7.7.2007. The appellant-Board in the counter affidavit, defending the order of dismissal, stated that the only reason given by the employee was that he could not attend the duties as he was availing continuous treatment for tuberculosis and, further, he also met with an accident in September 1995 which was unacceptable. In addition, it was stated in the counter affidavit that bunch of medical certificates was produced by him on 1.4.1997 which mentioned that he was suffering from depressive psychosis and bronchitis and there was no mention about any accident and injury sustained by him in September 1995 and treatment availed by him.

7. The learned Single Judge, by the impugned judgment, after narrating the facts, noted the statement of the learned counsel for the respondent that even if the employee had absented from duty, there was no past misconduct of desertion/absence and, therefore, the punishment of dismissal from service for the first time desertion/absenteeism is too harsh and disproportionate and deserved to be interfered with. The learned Single Judge did not advert to any other facet and referred to the decisions in Shri Bhagwan Lal Arya v. Commissioner of Police, Delhi[1], B. C. Chaturvedi v. Union of India[2], V. Ramana v. A.P. SRTC[3], Jagdish Singh v. Punjab Engineering College[4] and Division Bench judgment in V. Senthurvelan v. High Court of Judicature at Madras[5] and opined thus:-

> "10. Applying the said judgment to the fact of this case and considering the counter filed by the respondents wherein it is not stated as to whether the petitioner has deserted / absented on any previous occasion, this Court is of the view that this writ petition deserves to be allowed.
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> 11. This writ petition is allowed with a direction to the respondent to reinstate petitioner with continuity of service but without backwage, within a period of four weeks from the date of receipt of a copy of this order."

8. Grieved by the aforesaid order the CMWSSB preferred Writ Appeal No. 2531 of 2012 and the Division Bench accepted the conclusion of the learned single Judge by stating thus: -

> "It is not in dispute that the respondent/ writ petitioner was unwell during the said period, though there might have been some discrepancies in the date of the certificate issued, it has not been controverted by the appellant that the respondent/writ petitioner was suffering from depressive psychosis and bronchitis. That apart it has also not been disputed that the respondent/ writ petitioner had not suffered any earlier punishment while in the services of the appellant Board from the date of his appointment. Therefore, in such circumstances, it would be very harsh and unreasonable to impose the punishment of removal from service for the charge of unauthorized absence, as such punishment is awarded for acts of grave nature or as cumulative effect of continued misconduct or for such other reasons, where the

> charges are very serious and in case where charge of corruption had been proved. Admittedly, there has been no such allegation against the respondent/writ petitioner. Further, the learned single Judge while setting aside the order of dismissal from service, rightly denied back wages to the respondent/writ petitioner as the respondent/writ petitioner failed to discharge duty during the relevant period." [Underlining is ours]

9. We have heard the learned counsel for the parties and perused the material brought on record.

10. On a keen scrutiny of the decision rendered by the learned single Judge as well as that of the Division Bench it is clearly demonstrable that there has been no advertence with regard to the issue whether the charges levelled against the respondent had been proved or not. It is manifest that there had been no argument on the said score before the writ court or in intra- court appeal and hence, we are obliged to state that the only aspect which was really proponed before the High Court pertains to the nature of charges and proportionality of punishment. Therefore, we shall confine our analysis with regard to said limited sphere and an added facet which the learned counsel for the appellant has emphatically urged before us, that is, the belated approach by the respondent in invoking the extraordinary jurisdiction of the High Court.

11. The charges that were levelled against the respondent-employee read as follows: -

> "CHARGE NO. 1:
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> That he has failed to offer his explanation to this office Memo dated 11.10.95 in spite of reminders thereon dated 20.01.96 and 23.04.96 which clearly shows his disobedience to the order of superior and it amounts to misconduct under Regulation 6(1) of the MMWSS Board Employees (Discipline and Appeal) Regulations 1978.
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> CHARGE NO. 2:
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> That he has deserted the post from 28.08.95 onwards and remains unauthorisedly absent from duty which amounts to misconduct under Regulation 6(2) of the MMWSS Board Employees (Discipline and Appeal) Regulations 1978."

12. It is not in dispute that the Inquiry Officer found that both the charges had been proved. The disciplinary authority had ascribed reasons and passed an order of dismissal from service. On a perusal of the order of dismissal it is vivid that the medical certificate was belatedly submitted and he had remained unauthorisedly absent from 28.08.1995. The question that arises is when the charges of unauthorized absence for a long period had been proven, was it justified on the part of the High Court to take resort to the doctrine of proportionality and direct reinstatement in service. That apart, one aspect which has not at all been addressed to by the High Court is that the respondent invoked the extraordinary jurisdiction of the High Court after four years.

13. First, we shall deal with the facet of delay. In Maharashtra State Road Transport Corporation v. Balwant Regular Motor Service, Amravati and others[6] the Court referred to the principle that has been stated by Sir Barnes Peacock in Lindsay Petroleum Co. v. Prosper Armstrong Hurd, Abram Farewall, and John Kemp[7], which is as follows: -

> "Now the doctrine of laches in Courts of Equity is not an arbitrary or a technical doctrine. Where it would be practically unjust to give a remedy, either because the party has, by his conduct, done that which might fairly be regarded as equivalent to a waiver of it, or where by his conduct and neglect he has, though perhaps not waiving that remedy, yet put the other party in a situation in which it would not be reasonable to place him if the remedy were afterwards to be asserted in either of these cases, lapse of time and delay are most material. But in every case, if an argument against relief, which otherwise would be just, is founded upon mere delay, that delay of course not amounting to a bar by any statute of limitations, the validity of that defence must be tried upon principles substantially equitable. Two circumstances, always important in such cases, are, the length of the delay and the nature of the acts done during the interval, which might affect either party and cause a balance of justice or injustice in taking the one course or the other, so far as relates to the remedy."

14. In State of Maharashtra v. Digambar[8], while dealing with exercise of power of the High Court under Article 226 of the Constitution, the Court observed that power of the High Court to be exercised under Article 226 of the Constitution, if is discretionary, its exercise must be judicious and reasonable, admits of no controversy. It is for that reason, a person's entitlement for relief from a High Court under Article 226 of the Constitution, be it against the State or anybody else, even if is founded on the allegation of infringement of his legal right, has to necessarily depend upon unblameworthy conduct of the person seeking relief, and the court refuses to grant the discretionary relief to such person in exercise of such power, when he approaches it with unclean hands or blameworthy conduct.

15. In State of M.P. and others etc. etc. v. Nandlal Jaiswal and others etc. etc.[9] the Court observed that it is well settled that power of the High Court to issue an appropriate writ under Article 226 of the Constitution is discretionary and the High Court in exercise of its discretion does not ordinarily assist the tardy and the indolent or the acquiescent and the lethargic. It has been further stated therein that if there is inordinate delay on the part of the petitioner in filing a petition and such delay is not satisfactorily explained, the High Court may decline to intervene and grant relief in the exercise of its writ jurisdiction. Emphasis was laid on the principle of delay and laches stating that resort to the extraordinary remedy under the writ jurisdiction at a belated stage is likely to cause confusion and public inconvenience and bring in injustice.

16. Thus, the doctrine of delay and laches should not be lightly brushed aside. A writ court is required to weigh the explanation offered and the acceptability of the same. The court should bear in mind that it is exercising an extraordinary and equitable jurisdiction. As a constitutional court it has a duty to protect the rights of the citizens but simultaneously it is to keep itself alive to the primary

principle that when an aggrieved person, without adequate reason, approaches the court at his own leisure or pleasure, the Court would be under legal obligation to scrutinize whether the lis at a belated stage should be entertained or not. Be it noted, delay comes in the way of equity. In certain circumstances delay and laches may not be fatal but in most circumstances inordinate delay would only invite disaster for the litigant who knocks at the doors of the Court. Delay reflects inactivity and inaction on the part of a litigant – a litigant who has forgotten the basic norms, namely, "procrastination is the greatest thief of time" and second, law does not permit one to sleep and rise like a phoenix. Delay does bring in hazard and causes injury to the lis. In the case at hand, though there has been four years' delay in approaching the court, yet the writ court chose not to address the same. It is the duty of the court to scrutinize whether such enormous delay is to be ignored without any justification. That apart, in the present case, such belated approach gains more significance as the respondent-employee being absolutely careless to his duty and nurturing a lackadaisical attitude to the responsibility had remained unauthorisedly absent on the pretext of some kind of ill health. We repeat at the cost of repetition that remaining innocuously oblivious to such delay does not foster the cause of justice. On the contrary, it brings in injustice, for it is likely to affect others. Such delay may have impact on others' ripened rights and may unnecessarily drag others into litigation which in acceptable realm of probability, may have been treated to have attained finality. A court is not expected to give indulgence to such indolent persons - who compete with 'Kumbhakarna' or for that matter 'Rip Van Winkle'. In our considered opinion, such delay does not deserve any indulgence and on the said ground alone the writ court should have thrown the petition overboard at the very threshold.

17. Having dealt with the doctrine of delay and laches, we shall presently proceed to deal with the doctrine of proportionality which has been taken recourse to by the High Court regard being had to the obtaining factual matrix. We think it appropriate to refer to some of the authorities which have been placed reliance upon by the High Court.

18. In Shri Bhagwan Lal Arya (supra) this Court opined that the unauthorized absence was not a grave misconduct inasmuch as the employee had proceeded on leave under compulsion because of his grave condition of health. Be it noted, in the said case, it has also been observed that no reasonable disciplinary authority would term absence on medical grounds with proper medical certificate from Government doctors as a grave misconduct.

19. In Jagdish Singh (supra) the Court took note of the fact that the appellant therein was a sweeper and had remained absent on four spells totalling to fifteen days in all in two months. In that context, the Court observed thus: -

> "The instant case is not a case of habitual absenteeism. The appellant seems to have a good track record from the date he joined service as a sweeper. In his long career of service, he remained absent for fifteen days on four occasions in the months of February and March 2004. This was primarily to sort out the problem of his daughter with her in-laws. The filial bondage and the emotional attachment might have come in his way to apply and obtain leave from the employer. The misconduct that is alleged, in our view, would definitely amount to violation of discipline that is

> expected of an employee to maintain in the establishment, but may not fit into the category of gross violation of discipline. We hasten to add, if it were to be habitual absenteeism, we would not have ventured to entertain this appeal."

20. If both the decisions are appositely understood, two aspects clearly emerge. In Shri Bhagwan Lal Arya (supra), the Court took note of the fact, that is, production of proper medical certificate from a Government medical doctor and opined about the nature of misconduct and in Jagdish Singh (supra) the period of absence, status of the employee and his track record and the explanation offered by him. In the case at hand, the factual score being different, to which we shall later on advert, the aforesaid authorities do not really assist the respondent.

21. Learned counsel for the respondent has commended us to the decision in Krushnakant B. Parmar v. Union of India and another[10] to highlight that in the absence of a finding returned by the Inquiry Officer or determination by the disciplinary authority that the unauthorized absence was willful, the charge could not be treated to have been proved. To appreciate the said submission we have carefully perused the said authority. In the said case, the question arose whether "unauthorized absence from duty" did tantamount to "failure of devotion to duty" or "behavior unbecoming of a Government servant" inasmuch as the appellant therein was charge-sheeted for failure to maintain devotion to duty and his behavior was unbecoming of a Government servant. After adverting to the rule position the two-Judge Bench expressed thus: -

> "16. In the case of the appellant referring to unauthorized absence the disciplinary authority alleged that he failed to maintain devotion to duty and his behavior was unbecoming of a government servant. The question whether "unauthorized absence from duty" amounts to failure of devotion to duty or behavior unbecoming of a government servant cannot be decided without deciding the question whether absence is willful or because of compelling circumstances.
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> 17. If the absence is the result of compelling circumstances under which it was not possible to report or perform duty, such absence cannot be held to be willful. Absence from duty without any application or prior permission may amount to unauthorized absence, but it does not always mean willful. There may be different eventualities due to which an employee may abstain from duty, including compelling circumstances beyond his control like illness, accident, hospitalization, etc., but in such case the employee cannot be held guilty of failure of devotion to duty or behavior unbecoming of a government servant.
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> 18. In a departmental proceeding, if allegation of unauthorized absence from duty is made, the disciplinary authority is required to prove that the absence is willful, in the absence of such finding, the absence will not amount to misconduct."

22. We have quoted in extenso as we are disposed to think that the Court has, while dealing with the charge of failure of devotion to duty or behavior unbecoming of a Government servant, expressed the aforestated view and further the learned Judges have also opined that there may be compelling

circumstances which are beyond the control of an employee. That apart, the facts in the said case were different as the appellant on certain occasions was prevented to sign the attendance register and the absence was intermittent. Quite apart from that, it has been stated therein that it is obligatory on the part of the disciplinary authority to come to a conclusion that the absence is willful. On an apposite understanding of the judgment we are of the opinion that the view expressed in the said case has to be restricted to the facts of the said case regard being had to the rule position, the nature of the charge levelled against the employee and the material that had come on record during the enquiry. It cannot be stated as an absolute proposition in law that whenever there is a long unauthorized absence, it is obligatory on the part of the disciplinary authority to record a finding that the said absence is willful even if the employee fails to show the compelling circumstances to remain absent.

23. In this context, it is seemly to refer to certain other authorities relating to unauthorized absence and the view expressed by this Court. In State of Punjab v. Dr. P.L. Singla[11] the Court, dealing with unauthorized absence, has stated thus: -

> "Unauthorised absence (or overstaying leave), is an act of indiscipline. Whenever there is an unauthorized absence by an employee, two courses are open to the employer. The first is to condone the unauthorized absence by accepting the explanation and sanctioning leave for the period of the unauthorized absence in which event the misconduct stood condoned. The second is to treat the unauthorized absence as a misconduct, hold an enquiry and impose a punishment for the misconduct."

24. Again, while dealing with the concept of punishment the Court ruled as follows: -

> "Where the employee who is unauthorisedly absent does not report back to duty and offer any satisfactory explanation, or where the explanation offered by the employee is not satisfactory, the employer will take recourse to disciplinary action in regard to the unauthorized absence. Such disciplinary proceedings may lead to imposition of punishment ranging from a major penalty like dismissal or removal from service to a minor penalty like withholding of increments without cumulative effect. The extent of penalty will depend upon the nature of service, the position held by the employee, the period of absence and the cause/explanation for the absence."

25. In Tushar D. Bhatt v. State of Gujarat and another[12], the appellant therein had remained unauthorisedly absent for a period of six months and further had also written threatening letters and conducted some other acts of misconduct. Eventually, the employee was visited with order of dismissal and the High Court had given the stamp of approval to the same. Commenting on the conduct of the appellant the Court stated that he was not justified in remaining unauthorisedly absent from official duty for more than six months because in the interest of discipline of any institution or organization such an approach and attitude of the employee cannot be countenanced.

26. Thus, the unauthorized absence by an employee, as a misconduct, cannot be put into a straight-jacket formula for imposition of punishment. It will depend upon many a factor as has been laid down in Dr. P.L. Singla (supra).

27. Presently, we shall proceed to scrutinize whether the High Court is justified in applying the doctrine of proportionality. Doctrine of proportionality in the context of imposition of punishment in service law gets attracted when the court on the analysis of material brought on record comes to the conclusion that the punishment imposed by the Disciplinary Authority or the appellate authority shocks the conscience of the court. In this regard a passage from Indian Oil Corporation Ltd. and another v. Ashok Kumar Arora[13] is worth reproducing: -

> "At the outset, it needs to be mentioned that the High Court in such cases of departmental enquiries and the findings recorded therein does not exercise the powers of appellate court/authority. The jurisdiction of the High Court in such cases is very limited for instance where it is found that the domestic enquiry is vitiated because of non-observance of principles of natural justice, denial of reasonable opportunity; findings are based on no evidence, and/or the punishment is totally disproportionate to the proved misconduct of an employee."

28. In Union of India and another v. G. Ganayutham[14], the Court analysed the conception of proportionality in administrative law in England and India and thereafter addressed itself with regard to the punishment in disciplinary matters and opined that unless the court/tribunal opines in its secondary role that the administrator was, on the material before him, irrational according to Associated Provincial Picture Houses Ltd. v. Wednesbury Corpn.[15] and Council of Civil Service Unions v. Minister for Civil Service[16] norms, the punishment cannot be quashed.

29. In Chairman-cum-Managing Director, Coal India Limited and another v. Mukul Kumar Choudhuri and others[17], the Court, after analyzing the doctrine of proportionality at length, ruled thus: -

> "19. The doctrine of proportionality is, thus, well-recognised concept of judicial review in our jurisprudence. What is otherwise within the discretionary domain and sole power of the decision-maker to quantify punishment once the charge of misconduct stands proved, such discretionary power is exposed to judicial intervention if exercised in a manner which is out of proportion to the fault. Award of punishment which is grossly in excess to the allegations cannot claim immunity and remains open for interference under limited scope of judicial review.
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> 20. One of the tests to be applied while dealing with the question of quantum of punishment would be: would any reasonable employer have imposed such punishment in like circumstances?

Obviously, a reasonable employer is expected to take into consideration measure, magnitude and degree of misconduct and all other relevant circumstances and exclude irrelevant matters before

imposing punishment.

21. In a case like the present one where the misconduct of the delinquent was unauthorized absence from duty for six months but upon being charged of such misconduct, he fairly admitted his guilt and explained the reason for his absence by stating that he did not have intention nor desired to disobey the order of higher authority or violate any of the Company's rules and regulations but the reason was purely personal and beyond his control and, as a matter of fact, he sent his resignation which was not accepted, the order of removal cannot be held to be justified, since in our judgment, no reasonable employer would have imposed extreme punishment of removal in like circumstances. The punishment is not only unduly harsh but grossly in excess to the allegations."

30. After so stating the two-Judge Bench proceeded to say that one of the tests to be applied while dealing with the question of quantum of punishment is whether any reasonable employer would have imposed such punishment in like circumstances taking into consideration the major, magnitude and degree of misconduct and all other relevant circumstances after excluding irrelevant matters before imposing punishment. It is apt to note here that in the said case the respondent had remained unauthorisedly absent from duty for six months and admitted his guilt and explained the reasons for his absence by stating that he neither had any intention nor desire to disobey the order of superior authority or violated any of the rules or regulations but the reason was purely personal and beyond his control. Regard being had to the obtaining factual matrix, the Court interfered with the punishment on the ground of proportionality. The facts in the present case are quite different. As has been seen from the analysis made by the High Court, it has given emphasis on past misconduct of absence and first time desertion and thereafter proceeded to apply the doctrine of proportionality. The aforesaid approach is obviously incorrect. It is telltale that the respondent had remained absent for a considerable length of time. He had exhibited adamantine attitude in not responding to the communications from the employer while he was unauthorisedly absent. As it appears, he has chosen his way, possibly nurturing the idea that he can remain absent for any length of time, apply for grant of leave at any time and also knock at the doors of the court at his own will. Learned counsel for the respondent has endeavoured hard to impress upon us that he had not been a habitual absentee. We really fail to fathom the said submission when the respondent had remained absent for almost one year and seven months. The plea of absence of "habitual absenteeism" is absolutely unacceptable and, under the obtaining circumstances, does not commend acceptation. We are disposed to think that the respondent by remaining unauthorisedly absent for such a long period with inadequate reason had not only shown indiscipline but also made an attempt to get away with it. Such a conduct is not permissible and we are inclined to think that the High Court has erroneously placed reliance on the authorities where this Court had interfered with the punishment. We have no shadow of doubt that the doctrine of proportionality does not get remotely attracted to such a case. The punishment is definitely not shockingly disproportionate.

31. Another aspect needs to be noted. The respondent was a Junior Engineer. Regard being had to his official position, it was expected of him to maintain discipline, act with responsibility, perform his duty with sincerity and serve the institution with honesty. This kind of conduct cannot be countenanced as it creates a concavity in the work culture and ushers in indiscipline in an organization. In this context, we may fruitfully quote a passage from Government of India and

another v. George Philip[18]: -

> "In a case involving overstay of leave and absence from duty, granting six months' time to join duty amounts to not only giving premium to indiscipline but is wholly subversive of the work culture in the organization. Article 51-A(j) of the Constitution lays down that it shall be the duty of every citizen to strive towards excellence in all spheres of individual and collective activity so that the nation constantly rises to higher levels of endeavour and achievement. This cannot be achieved unless the employees maintain discipline and devotion to duty. Courts should not pass such orders which instead of achieving the underlying spirit and objects of Part IV-A of the Constitution have the tendency to negate or destroy the same."

32. We respectfully reiterate the said feeling and re-state with the hope that employees in any organization should adhere to discipline for not only achieving personal excellence but for collective good of an organization. When we say this, we may not be understood to have stated that the employers should be harsh to impose grave punishment on any misconduct. An amiable atmosphere in an organization develops the work culture and the employer and the employees are expected to remember the same as a precious value for systemic development.

33. Judged on the anvil of the aforesaid premises, the irresistible conclusion is that the interference by the High Court with the punishment is totally unwarranted and unsustainable, and further the High Court was wholly unjustified in entertaining the writ petition after a lapse of four years. The result of aforesaid analysis would entail overturning the judgments and orders passed by the learned single Judge and the Division Bench of the High Court and, accordingly, we so do.

34. Consequently, the appeal is allowed and the judgments and orders passed by the High Court are set aside leaving the parties to bear their respective costs.

.....J. [H.L. Gokhale] .....J. [Dipak Misra] New Delhi;

February 10, 2014.

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[1] (2004) 4 SCC 560
[2] (1995) 6 SCC 749
[3] (2005) 7 SCC 338
[4] (2009) 7 SCC 301
[5] (2009) 7 MLJ 1231
[6] AIR 1969 SC 329
[7] (1874) 5 PC 221
[8] (1995) 4 SCC 683
[9] AIR 1987 SC 251
[10] (2012) 3 SCC 178
[11] (2008) 8 SCC 469
[12] (2009) 11 SCC 678
[13] (1997) 3 SCC 72

[14] (1997) 7 SCC 463
[15] (1948) 1 KB 223 : (1947) 2 All ER 680
[16] 1985 AC 374 : (1984) 3 All ER 935
[17] (2009) 15 SCC 620
[18] (2006) 13 SCC 1
