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A Critical Analysis Of Disciplinary Process Under Labour Law In India Through The Lens Of Principles Of Natural Justice

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Abstract
The paper presents a doctrinal and contextual analysis of disciplinary jurisprudence in Indian industrial relations, focusing on the evolving application of natural justice principles. It argues that workplace discipline is not merely a managerial tool for ensuring efficiency but a complex legal field that mediates the structural tensions between capital accumulation and labour protection. The study begins by examining how the undefined concept of "misconduct" has been judicially shaped, emphasizing the principles of proportionality and a clear nexus to the employment relationship to prevent arbitrary punishment. A core focus is the domestic enquiry, which the paper analyses as a quasi-judicial process essential for procedural fairness and legitimizing managerial authority within a constitutional framework. By linking disciplinary proceedings to the right to livelihood under Article 21 of the Constitution, Indian courts have elevated these internal processes to a matter of constitutional due process.
Through a comparative analysis with labour laws in the UK, China, Germany, and France, the paper highlights the procedural robustness of the Indian model while identifying a need for greater emphasis on substantive compassion. It concludes by advocating for a more dialogic and less adversarial disciplinary framework, proposing the reintroduction of empowered Joint Management Councils (JMCs) modeled on the German Betriebsrat. Such councils would institutionalize a supportive and rehabilitative approach, ensuring termination is a last resort and aligning industrial practice with the constitutional mandate for workers' participation in management.
Keywords: *Labour Law, Natural Justice, Article 21, Workmen Rights, Industrial Adjudication.*

1. INTRODUCTION

As India envisages to become an economic power house, it is important to have an efficiently effective and more like a symbiotic relation between workman and management in the Industries which forms the backbone of a vibrant economy. In an industrial establishment, the preservation of the rights and legitimate interests of both parties must be consciously safeguarded. The labour force, or workmen, constitutes an indispensable component in the chain of economic production, without which the operational machinery of industry cannot function. A harmonious and amicable relationship between managerial authorities and the workforce is, therefore, not merely desirable but essential for sustaining operational efficiency and productivity(Velanganni, 2024).

In the contemporary civilised society, all relationships including Industrial workman and employer are increasingly scrutinised through the lens of normative morality and social justice. However, when it comes to the domain of industrial jurisprudence, the analytical framework must necessarily extend beyond these normative dimensions. A sound appraisal of industrial relations must integrate economic variables and operational realities that exert a direct influence on the performance and stability of industries. Any meaningful discourse on labour jurisprudence, therefore, must balance the demands of equity and fairness with the pragmatic considerations that underpin industrial growth and national economic objectives.

Two critical determinants that exert a direct and sustained influence on industrial development, particularly within the realm of labour relations, are discipline and efficiency. Of these, efficiency is arguably contingent upon the extent of discipline institutionalized within an industrial establishment, as discipline engenders industrial harmony, an indispensable prerequisite for operational continuity and economic productivity. A deficit of discipline invariably breeds organizational disarray, which not only

impedes production cycles but also precipitates financial fragility and systemic dysfunction within the enterprise. Consequently, the imperative to insulate industry from the disruptive consequences of indiscipline cannot be overstated, especially when developmental blueprints, production benchmarks, and strategic objectives of nation risk being undermined by the errant conduct of a minority within the workforce (Mozumdar, S. A., & Ramlal, P. 2017).

Addressing workplace misconduct through a calibrated system of sanctions becomes essential, both to uphold normative standards and to reinforce institutional coherence. Such disciplinary measures must serve a dual function, first, deterrence against deviant behaviour, and second, correction through reformation, thereby fostering a workplace culture grounded in accountability, procedural fairness, and collaborative stability (Srivastava, A. K., 2025).

A disciplinary proceeding or action remains one of the most vital instruments available to management for ensuring compliance with industrial discipline. It functions as a formal mechanism through which workplace misconduct is addressed and institutional order is preserved. The initiation of such proceedings becomes imperative when the employer becomes aware of acts or omissions by a workman that contravene established codes of conduct or service rules. Although typically directed against an individual employee, disciplinary action may, under appropriate circumstances, be initiated collectively against a group of workmen, particularly where the misconduct involves concerted or *en masse* indiscipline. The discovery of misconduct may arise through multiple channels ranging from supervisory reports, internal audits, complaints by co-workers or third parties, or even independent observation by managerial personnel. Regardless of the source, once credible information surfaces suggesting the breach of discipline, the employer is obligated to follow a structured and procedurally fair inquiry process, grounded in principles of natural justice and proportionality (Srivastava, A. K., 2025).

Industrial adjudication in India was conceived as an instrument to advance social justice and to foster industrial peace and harmony between employers and workmen. Over time, however, labour jurisprudence has witnessed a discernible trend wherein judicial and quasi-judicial bodies have occasionally rendered decisions not solely anchored in legal entitlements or statutory mandates, but influenced by equitable considerations, emotive reasoning, and normative ideals of fairness. A notable example is *Airlines Hotel (P) Ltd.* v. *Workmen (1962)*, where the Industrial Tribunal granted a wage increase to the employees without establishing a definitive finding on the employer's financial capacity to absorb the enhanced liability although the award was ultimately set aside (Sorabjee & Datar, 2012). Such instances illustrate how adjudicatory bodies, while overwhelmed by a sheer sense of distributive justice, may at times transcend the boundaries of legal reasoning and inadvertently contribute to a distortion of labour jurisprudence. This raises critical questions about the balance between legal formalism and judicial populism in the field of industrial dispute resolution.

Debi S. Saini, (Saini, 1991) drawing extensively upon the critical jurisprudential framework advanced by Upendra Baxi (Baxi, 1982), underscores the entrenched asymmetries of power that define the employer-employee relationship in Indian industrial relations. This intellectual tradition, deeply rooted in a normative commitment to social justice, consistently foregrounds the precariousness of labour within capitalist structures. While this perspective is invaluable in critiquing exploitative labour practices, it often privileges moral indignation and empathetic alignment over the economic imperatives that constrain industrial management. The resultant adjudicatory posture, as evidenced in cases such as *Airlines Hotel Ltd. v. Workmen*, where a wage increase was judicially sanctioned without a concrete determination of the employer's financial capacity, exemplifies a recurring tendency to conflate judicial compassion with legal rectitude. Such decisions, though motivated by an egalitarian impulse, risk engendering systemic distortions in labour jurisprudence by marginalising the functional realities of enterprise economics.

When the juridical process elevates sentiment over sustainability, it inadvertently undermines industrial discipline, operational efficiency, and the broader economic ecology objectives that are, paradoxically, essential to safeguarding long-term labour welfare. Thus, a more calibrated adjudicatory approach one that reconciles principles of social justice with pragmatic economic considerations is imperative for the coherence and legitimacy of labour jurisprudence in contemporary India. Labour law in India transcends the narrow confines of mere social welfare legislation. It represents a nuanced intersection of social justice imperatives and economic governance frameworks. As a composite body of norms, it seeks to balance the

protection of labour rights with the pragmatic demands of industrial productivity, macroeconomic stability, and national development. This paper undertakes a doctrinal and contextual analysis of disciplinary proceedings in industrial employment, with a focused inquiry into the application and evolution of the principles of natural justice within such processes. By embedding the disciplinary process within these socio-economic realities, the paper contends that the mechanisms of workplace discipline are not merely procedural or managerial tools, but are deeply embedded in and reflective of structural tensions between capital accumulation and labour protection. The study aims to interrogate how industrial adjudication navigates these competing pressures, and whether the jurisprudential commitment to fairness, due process, and dignity is being recalibrated in light of shifting economic paradigms and employer expectations.

2. DISCIPLINARY JURISPRUDENCE IN LABOUR LAW

The master–servant relationship in industrial jurisprudence is inherently characterised by structural subordination. This asymmetry is regulated and stabilised through the principle of discipline, an indispensable normative and functional requirement for industrial peace, operational efficiency and long-term economic development. Discipline is not merely a managerial prerogative, rather, it is a regulatory ethos that undergirds the entire framework of industrial relations. Without discipline, the industrial establishment risks descending into disorder, which can erode productivity, strain financial viability, and ultimately threaten the sustainability of both enterprise and employment.

As industries have evolved in both scale and complexity, the need to balance managerial prerogatives with labour rights has grown increasingly acute. At the heart of this balance lies the jurisprudence of discipline, which seeks to rationalize the exercise of employer control within the broader matrix of constitutional values, statutory protections, and principles of natural justice.

It is a normative common law inherent condition of employment that the employer has the right to control not only the output but also the conduct of the employee during the course of business (Kaul, B. T., 2007). Indeed, this managerial authority, though necessary for operational efficiency, carries the potential for overreach. The employer's quest to maximize productivity often results in stringent disciplinary frameworks where even minor transgressions may attract disproportionate penalties. Historically, this was rationalized under the common law principle that allowed an employer unfettered discretion to hire and fire. However, with the advent of welfare state jurisprudence, this position has been substantially altered by statutory interventions and judicial interpretations emphasizing social justice Srivastava, A. K. (2025).

The proliferation of contract labour and third-party intermediaries in the contemporary industrial economy has further complicated the contours of the employer-employee relationship. In many instances, workers hired through contractors perform their duties under the direct supervision and control of the principal employer and mark attendance on the premises, creating a de facto employment relationship despite its de jure denial (*Ram Manohar Lohia Joint Hospital v. Munna Prasad Saini*, 2021). Indian labour jurisprudence has recognized that such situations warrant judicial scrutiny to determine whether a genuine employment relationship exists. Control and supervision continue to be the determinative tests in establishing this relationship. The doctrine of fairness though inbuilt in employment relations can only be applied meaningfully once the existence of such a relationship is judicially acknowledged (*National Aluminium Co. Ltd. v. Ananta Kishore Rout*, 2014).

The normative foundation of the employment relationship implies that the worker is expected to obey lawful orders, discharge duties with diligence, and maintain civil behaviour with colleagues and superiors. Equally, the employee must be physically and mentally fit to perform the tasks assigned. A failure to meet these basic obligations justifies, in certain cases, the employer's right to initiate disciplinary action or even terminate employment. However, this managerial discretion is not absolute. It must be exercised within the framework of fairness, proportionality, and procedural regularity.

In this regard, disciplinary jurisprudence becomes a critical facet of labour law, mediating between the interests of the employer and the rights of the worker. The Supreme Court of India, through a series of landmark decisions, has laid down that disciplinary proceedings must conform to the principles of natural justice particularly the right to a fair hearing, the rule against bias, and the obligation to provide reasoned

decisions. The requirement for a "procedure established by law" under Article 21 of the Constitution of India reinforces the legitimacy of these procedural safeguards. The Industrial Disputes Act, 1947, particularly Section 2A, empowers individual workmen to raise disputes regarding wrongful termination, recognizing the individual's vulnerability in the face of institutional power. Indian courts have consistently held that a worker cannot be punished arbitrarily, and that any disciplinary action must adhere to a legally tenable process. In *D.K. Yadav* v. *J.M.A. Industries Ltd. (1993)* the Supreme Court held that "the procedure prescribed for depriving a person of livelihood must conform to the mandate of Article 21". This landmark judgment elevated the procedural requirements of domestic enquiries to the level of constitutional due process.

As industries scale up, disciplinary mechanisms have become more systematized through the institution of domestic enquiries. These internal proceedings are intended to offer an opportunity to the employee to defend against allegations of misconduct. Yet, their integrity hinges on adherence to procedural fairness, including timely notice, unbiased inquiry officers, opportunity to adduce evidence, cross-examination, and reasoned conclusions. Any deviation from these norms vitiates the enquiry, making the resultant disciplinary action susceptible to legal challenge.

The prevailing legal architecture of domestic enquiry surrounding disciplinary action serves a dual function, first it safeguards industrial efficiency through managerial control and second, ensures the protection of worker rights through legally sanctioned procedures. Striking this balance is particularly challenging in today's climate of economic liberalization, where the flexibility of employers is often pitched against the precarity of labour. The imperative is not to dismantle managerial authority, but to democratize it through procedural accountability and substantive fairness.

Disciplinary jurisprudence in Indian labour law is neither static nor merely procedural it is a dynamic field that reflects the evolving relationship between capital and labour. It captures the judicial and legislative struggle to harmonize efficiency with equity and control with consent. Disciplinary jurisprudence is not merely about maintaining order, but about mediating power. It operates at the intersection of managerial control and constitutional fairness, of industrial necessity and individual dignity. It serves as the legal and ethical compass to ensure that discipline does not degenerate into domination, and that penalties are not a mask for prejudice. As industries continue to modernize, the need for a nuanced and principled disciplinary framework becomes all the more critical not only for industrial peace but also for aligning labour practices with constitutional morality.

Definition of Misconduct

The concept of misconduct, while central to disciplinary jurisprudence, remains conspicuously undefined within the statutory framework of Indian labour law. Neither the Industrial Disputes Act, 1947, nor extant Service Rules encapsulate a codified definition. Instead, its semantic and legal boundaries have been delineated over time through a rich corpus of judicial interpretation. Courts have persistently underscored that misconduct is not a term of fixed legal import but a protean concept with its contours fluid, contextual, and heavily dependent on the factual matrix of each case. It is well stated that what is not certain cannot be obligatory. Therefore, to bind the workman to a code of conduct, the code must be known in advance. The Apex court frowns upon *ex post facto* declaration of performance of an act or omission, as misconduct (*Rashikal Vaghajibhai Patel v. Ahmedabad Municipal Corporation*, 1985).

The Acts or omission which are to be treated as misconduct in Industrial employment are given under para 14 of the Model misconduct in Industrial employment are given in para 14 of Model Standing Orders list out specified instances (Industrial Employment (Standing Orders) Act, 1946). The instance enumerated there are not exhaustive. Workman can't go with impunity for being un-civil to his superiors by using abusive or filthy language. An employee must not be a cause of disruptive to the company which employs him and if he ignores this basic rule of civil behaviour the organisation is at liberty to get rid of him on that score alone.

In jurisprudential terms, misconduct encompasses acts or omissions that contravene established norms of propriety, ethics or legality in the execution of official duties. It embodies behaviour that is wilful, contumacious, or actuated by moral turpitude often involving defiance of authority, breach of trust, abuse of discretion, or egregious departure from professional obligations. It denotes a qualitative transgression rather than a mere quantitative deficiency. Notably, the courts have been emphatic in excluding from its

ambit isolated instances of error in judgment, inadvertent negligence, or *bona fide* mistakes unless such lapses attain the gravity of habitual dereliction or reckless disregard.

An act or omission alleged to constitute misconduct must bear a reasonable and rational nexus with the employment relationship and the overarching need for industrial discipline. If the natural or probable consequence of such conduct is to disrupt the smooth functioning of employer-employee relations, disturb harmony among workers, or undermine the discipline essential to the establishment, it may legitimately be construed as misconduct under service jurisprudence (Kaul, B. T., 2007).

While misconduct is a generic term, its contextual interpretation within labour law must be calibrated to the specific relational dimensions of employment namely, conduct *vis-à-vis* (i) the work itself, (ii) superior officers, and (iii) co-workers. In relation to the *work*, misconduct may encompass habitual negligence, wilful dereliction of duty, carelessness, perfunctory or inefficient performance, unauthorised absence, or engagement in gambling, drinking, or disorderly behaviour within the workplace. Each of these undermines the integrity and efficacy of the employment contract.

In relation to superior officers, acts such as defiance of lawful orders, insubordination, the use of abusive, defamatory, or threatening language, or other forms of deliberate misdemeanour may amount to misconduct. Similarly, in relation to co-workers, any behaviour that creates hostility or fear including verbal abuse, intimidation, threats or acts of violence, bullying, communal incitement, or making obscene gestures or remarks, particularly towards female employees erodes the social fabric of the workplace and is considered grave misconduct.

Thus, misconduct is not merely any undesirable behaviour, it must be assessed through a prism of workplace impact, organisational discipline, and the employment relationship's normative expectations.

The Supreme Court in *Union of India* v. *J. Ahmed (1979)* poignantly articulated that misconduct, *albeit* elusive in definition must exhibit the "forbidden quality" a deliberate infraction of institutional discipline or codified conduct standards. It is the cumulative effect of the act, its intentionality, and its impact on the organizational framework that renders it culpable. The definition, therefore, cannot be understood in Isolation but must be construed in light of the statutory purpose, the functional dynamics of the employment relationship, and the exigencies of industrial harmony.

Common law jurisprudence, as recognised and applied by courts in England, has historically defined the term misconduct in broad and flexible terms often allowing considerable discretion to the employer in its interpretation and application. The Supreme Court of India, in *Govinda Menon* v. *Union of India (1967)*, endorsed the classic observation of Lopes LJ in *Pearce* v. *Foster(1866)*, wherein the learned judge observed that "If a servant conducts himself in a way inconsistent with the faithful discharge of his duty in the service, it is misconduct which justifies immediate dismissal. That misconduct, in my view, need not relate strictly to the actual performance of the business; it is sufficient if it is conduct which is prejudicial, or likely to be prejudicial, to the interest or reputation of the master. The master is justified in dismissing the servant not only upon discovery of such conduct contemporaneously, but also upon its discovery at a later stage."

This interpretation allows the employer significant latitude in determining what constitutes prejudicial conduct. However, over the past few decades, Indian jurisprudence has witnessed a perceptible shift driven in part by a growing awareness among workers about their rights, and influenced by economic liberalisation, privatisation, outsourcing, and the evolution of a market-driven labour regime. In *Hombe Gowda Educational Trust* v. *State of Karnataka (2006)*, the Supreme Court acknowledged a transformation in judicial approach one that seeks to maintain a more nuanced balance between the employer's right to discipline and the employee's right to security of tenure. The Court adopted a policy of minimal interference in cases involving serious misconduct, particularly where the allegations pertain to destruction of the employer's property, use of abusive or obscene language against superiors, or acts of physical violence at the workplace. Such acts are viewed as direct threats to industrial discipline and are not lightly condoned (*Engineering Laghu Udyog Employeer's Union* v. *Judge, Labour Court*, 2004). At the same time, the Court has recognised the importance of proportionality in disciplinary matters. For instance, isolated or stray instances of unauthorised absence may not amount to misconduct warranting dismissal. However, where such absenteeism is habitual or repeated, it acquires a character that reflects indiscipline and disregard for organisational norms. In such cases, if the employer reasonably concludes that the

worker has lost interest in their duties and is unsuitable for continued employment, disciplinary termination has been upheld. The Supreme Court, in such circumstances, has refrained from intervening signalling a growing deference to the managerial prerogative when exercised fairly and with adequate procedural safeguards.

Consequently, misconduct is a dynamic and interpretive construct that resists categorical classification. It derives its legal significance from an amalgamation of statutory context, the employer's standing orders or service rules, and overarching principles of industrial equity.

People behave within a context and attributes of the situation influence their actions (Mitchell, Daniels, et al., 1996). Situational variables shape organizational behavior as either proximal causes (direct, such as explicit rules and sanctions) or distal causes (indirect, like economic downturns creating profit pressures). External factors such as turbulence, uncertainty, and resource scarcity strain firms, generating ambiguity and anxiety that may drive inappropriate or illegal conduct. Likewise, organizational traits size, complexity, growth, and performance create pressures and uncertainties mediated by competition and performance demands. These variables reveal how contextual forces, rather than individual intent alone, often determine actions, underscoring the importance of situational influences in shaping workplace conduct and decision-making (Mitchell, Daniels, et al., 1996). Their behaviour also often have direct connotation with what is happening within their life. In the adjudicatory process, it becomes imperative that tribunals and disciplinary authorities undertake a calibrated inquiry differentiating between actionable impropriety and non-punitive lapses so as to ensure that punitive measures are not visited arbitrarily or disproportionately.

Understanding the evolving semantics and judicial nuances of misconduct is indispensable to upholding the integrity of disciplinary proceedings. It not only precisely portray the threshold for employer intervention but also functions as a safeguard against the capricious exercise of managerial prerogative powers and thereby ensures reinforcement the constitutional ethos of procedural fairness and industrial justice.

Termination of a workman can be justified only upon the establishment of misconduct through a fair and impartial process. In this framework, the domestic enquiry forms the procedural core of disciplinary action, providing the mechanism through which allegations are scrutinised and the principles of natural justice are upheld. If misconduct supplies the substantive ground for discipline, the domestic enquiry ensures the procedural legitimacy of any punitive action. It is this quasi-judicial character of domestic enquiry that now merits closer examination.

3. DOMESTIC ENQUIRY AS A QUASI-JUDICIAL PROCESS IN DISCIPLINARY JURISPRUDENCE

Disciplinary proceedings occupy a vital space in the architecture of industrial governance, serving as the primary mechanism through which employers assert their managerial prerogative to maintain workplace discipline. Though inherently managerial in origin, such proceedings acquire a quasi-judicial character the moment the employer initiates a formal enquiry against a workman for alleged misconduct. At this point, the process transcends managerial discretion and enters the realm of substantive legal scrutiny, as it implicates fundamental concerns of livelihood, fairness, and due process.

The starting point of a domestic enquiry is the issuance of a charge sheet, a written communication that sets out the specific allegations of misconduct against the delinquent employee. In service jurisprudence, this stage is not to be treated lightly. The disciplinary authority must issue the charge sheet only after a *prima facie* assessment of the allegations, based on credible material. In *Berium Chemicals* v. *Company Law Board (1967)*, the Supreme Court held that the formation of the authority's subjective opinion must be predicated upon the objective existence of foundational facts, thereby subjecting even administrative satisfaction to limited judicial review. This doctrinal safeguard, though originating in administrative law, applies equally to disciplinary jurisprudence.

Charge

The term 'charge' has a technical connotation, paralleling its meaning in criminal procedure as defined under Section 2(f) of the Bharatiya Nagarik Suraksha Sanhita, 2023. However, in the context of labour law, precision is tempered with practicality. As held in *Firestone Tyre & Rubber Co. Ltd.* v. *Workman(1968)*, while the rigour of criminal drafting is not required, the charge must not be so vague or ambiguous as to

deprive the workman of a fair opportunity to defend himself. The charge sheet must outline the acts or omissions alleged as misconduct, be supported by a statement of imputations, and avoid prejudicial language that presumes guilt. The jurisprudential emphasis is on enabling the delinquent employee to understand the accusation, respond to it meaningfully, and thus participate in a procedurally fair enquiry. The enquiry itself though, internal and managerial in nature, carries the trappings of a judicial proceeding. As per established practice, the enquiry is conducted by a designated enquiry officer, distinct from the disciplinary authority, thereby preserving the impartiality of the process. The employer is represented by a presenting officer, while the employee may be assisted by a co-worker or union representative, especially where legal representation is barred. The process involves examination-in-chief, cross-examination, and re-examination of witnesses, as well as the admission of documentary evidence. Though the strict rules of the Indian Evidence Act, 1872 are not applicable, the Supreme Court has repeatedly held that the findings must be supported by "some evidence" and that conjecture or hearsay cannot form the basis of a finding of guilt (*Sur Enamel and Stamping Works Ltd.* v. *Their Workmen* 1963).

The quasi-judicial character of domestic enquiry is underscored by the twin principles of natural justice: a) *audi alteram partem* (the right to be heard) and b) *nemo judex in causa sua* (no one should be a judge in his own cause). The proceedings must be free from bias, and the delinquent must be afforded a real and effective opportunity to defend. In *State of Punjab* v. *Dewan Chuni Lal* and in *Workmen of Motipur Sugar Factory* v. *Motipur Sugar Factory* (1965), the Supreme Court emphasised that fairness is not merely procedural but perceptual that is the enquiry must not only be fair but must also appear to be so to a reasonable observer.

Where no enquiry is held prior to dismissal or discharge, the disciplinary action may be rendered illegal (*Workmen of Firestone Tyre & Rubber Co.* v. *Management*, 1973). However, the jurisprudential position, as affirmed in *Motipur Sugar Factory* and later in *Karnataka State Road Transport Corporation* v. *Lakshmidevamma (2001)*, allows the employer to justify the action by leading fresh evidence before the labour court or industrial tribunal. This doctrine of *de novo* justification reflects a pragmatic balancing between procedural lapses and substantive justice, but it also places a premium on conducting a valid domestic enquiry in the first instance.

Prof. De Smith, in his seminal work on judicial review, and Prof. H.W.R. Wade in his treatises on administrative law, have argued that disciplinary authorities though ostensibly administrative must adopt a judicial posture given the civil consequences involved. Wade aptly notes that if there is one domain that demands adherence to the fundamental rules of fairness and procedural safeguards, it is disciplinary adjudication, which affects both the professional standing and economic survival of the employee.

The Indian judiciary has internalised this doctrinal stance. In *SL Kapoor* v. *Jagmohan (1980)*, the Supreme Court held that breach of natural justice itself constitutes prejudice and invalidates the decision, irrespective of the actual outcome. Moreover, courts have insisted that the right to a fair hearing includes not just an abstract opportunity to reply, but a structured and orderly process where the workman is aware of the materials used against him, has the opportunity to cross-examine witnesses, present evidence, and secure the assistance of a defence representative. Failure to supply relevant documents, especially when pleaded with specificity as in *Ramesh Chandra* v. *Delhi University (2015)* is sufficient to vitiate the enquiry.

Notably, procedural fairness extends to the manner in which the hearing is conducted. In *Errington* v. *Minister of Health (1935)*, it was held that a hearing given in the absence of one party violates the rules of natural justice. This has been echoed in Indian decisions as well, reinforcing that procedural justice is not a formality but a substantive right.

Equally crucial is the right to obtain assistance during the enquiry. The delinquent employee must be allowed the help of a co-worker or union office bearer conversant with the procedure, particularly where the complexity of the charges or evidence necessitates such support. Denial of this right has repeatedly been held to undermine the fairness of the enquiry.

Comparative Analysis

In comparative perspective, in almost every jurisdictions a workman is susceptible to be terminated if found guilty of misconduct. Misconduct is frowned upon seriously in almost every jurisdiction. However,

jurisdiction with stronger traditions of collective bargaining often require prior consultation with trade unions before disciplinary action is taken. Sometimes court press for more compassionate and emotionally supportive approach while terminating coupled with preceding fair and unbiased domestic enquiry. While Indian law does not mandate such consultation, and disciplinary action remains an area of managerial prerogative, there is growing jurisprudential recognition that the absence of representational safeguards can structurally disadvantage the workman, especially in cases involving power asymmetries and lack of legal literacy.

United Kingdom

In In the United Kingdom, unfair dismissal is governed principally by Part X of the *Employment Rights Act 1996*, which grants employees the right not to be unfairly dismissed (*Employment Rights Act*, 1996, § 94). However, the term used is employee, thus it doesn't extent to workmen. The employer must first establish a potentially fair reason premised on either capability, conduct, redundancy, statutory illegality, or some other substantial reason before the tribunal may considers, under Section 98(4), whether the decision to dismiss was reasonable in all the circumstances (*Employment Rights Act*, 1996, § 94). The fairness inquiry is guided by the "band of reasonable responses" test, established in *Iceland Frozen Foods Ltd* v. *Jones (1983)*, which holds that a dismissal is fair if it falls within the range of actions a reasonable employer might have taken tribunals must not substitute their own view for that of the employer. In misconduct cases, courts had laid the *Burchell* test (*British Home Stores Ltd* v. *Burchell*, 1978) which requires the employer to have an honest belief, reasonable grounds, and a reasonable investigation (Bowers, J., & Clarke, A., 1981). Procedural fairness principles laid down in Polkey case (*Polkey* v. *AE Dayton Services Ltd,* 1988) is essential, and tribunals are expected to compliance with the ACAS Code of Practice which ensure fairness and adherence to latent principles of common law (*ERA 1996*, s. 207A). These are host of doctrines that applies to every dismissal in United Kingdom. Remedies for unfair dismissal include reinstatement, re-engagement, and compensation ((*ERA 1996*, ss. 113–123).

China

In Chinese Practice as well, employer bear the burden of proof and such misconduct must be clearly outlined in the company's disciplinary code, approved through Legal procedures and publicly disclosed. China's *Labour Contract Law* provides a balanced framework for employer-employee relations. Article 39 of Chinese labour Contract Law specifies the limited circumstances in which an employer may unilaterally terminate a labour contract without severance. The provision places a heavy burden of proof on the employer, requiring clear evidence and adherence to procedural fairness. Through provisions on termination conditions, procedures, and other aspects, the law regulates employers' termination behaviours, granting employers a certain degree of autonomy in employment while fully protecting the legitimate rights and interests of workers (Li, S. 2025).

The burden of proof rests on employers. Failure to provide solid evidence or follow legal procedures leads to unlawful termination findings, requiring compensation. Article 39 thus promotes fairness, prevents arbitrary dismissal, and balances employer management rights with employee job security. To comply these requirements and avoid any potential legal hiccups, establishment always promulgate and handover to every workman and employee a Handbook containing a details list of misconduct and behaviour ought to be observed by employee due the course of employment and business.

As per Chinese Labour Contract Law, Employers should ensure that workplace rules are formulated through democratic processes involving employee participation and subsequently publicized to guarantee transparency and acceptance. Clear, written job descriptions and performance benchmarks must be maintained to provide objective standards for evaluation. Any violations should be documented with contemporaneous evidence to ensure fairness and accuracy in disciplinary proceedings. The burden of proof rests on employers. Failure to provide solid evidence or follow legal procedures leads to unlawful termination findings, requiring compensation. Article 39 thus promotes fairness, prevents arbitrary dismissal, and balances employer management rights with employee job security (Wang, F., Gan, B., et al. 2019). Furthermore, statutory requirements relating to notice and termination procedures must be followed strictly, thereby safeguarding both legal compliance and the principles of natural justice (Li, S. 2025).

European Union Countries

Some of European countries have enacted their employment law in line European charter which is recognised as most employee friendly legislation. The European social model treats employment not just as a contract but as a social relationship. This means dismissal is the last resort not the first response. Employer have a legal duty to act proportionately and in good faith. Corrective approach, skill development and compassionate measures are embedded in both statutory law and case law. Article 30 of EU charter of Fundamental Rights recognises protection in the event of unjustified dismissal. While it leave procedural details to member states the interpretation in the European court of justice case law stresses fair procedure, proportionality and consideration of alternatives. EU directives must be implemented through national law, several member states go beyond procedural fairness and explicitly requires a rehabilitation approach before dismissal.

In Germany, *Kündigungsschutzgesetz* (Dismissal Protection Act) requires "social justification" even for conduct dismissals. The freedom of the employer to dismiss an employee is mainly governed by the German Civil Code (*Bürgerliches Gesetzbuch*) and the German Act Against Unfair Dismissal (*Kündigungsschutzgesetz*). German labour and employment law sets high standards for the employer to unilaterally terminate an employment relationship. A dismissal based on the employee's conduct usually requires that an advance warning letter (*Abmahnung*) has been given to the employee. Conduct-related reasons include a wilful or severely negligent breach of contract. In practice, employer usually investigate the face internally before issuing warning to avoid it being struck by the labour court. German law doesn't require formal enquiry like in India before issuing a warning (Waas, B. 2021).

In France, A warning is considered a disciplinary sanction. Under the *Code du Travail* (L1332-2), any disciplinary sanction (including warnings) requires that the employee is notified of the allegations. He is being given an opportunity of being heard and defend themselves. In France, even before a warning the employer must carry out the procedural enquiry though not as formal as in India.

ILO Jurisprudence

ILO convention No. 158, Article 7 requires that an employee should not be terminated for misconduct without being given an opportunity to themselves. While it doesn't explicitly mention about "warnings" many ILO commentaries suggest that any disciplinary sanction must respect principles of due process, which means at least a minimal fact-finding and opportunity to be heard.

Domestic enquiry in Indian labour law, though administrative in origin, is firmly grounded in the ethos of quasi-judicial procedure. It seeks to balance managerial control with the constitutional values of fairness, transparency, and non-arbitrariness. India's proportionality based industrial jurisprudence and possibility and power of labour court to substitute their judgement (*Workmen of M/s. Firestone Tyre & Rubber Co.* v. *Management* 1973) to domestic enquiry award lend further impetus to probability of fairness in Industrial jurisprudence. The integrity of this process is critical not merely for protecting the rights of workers but also for legitimising managerial authority within a rule-of-law framework. Its failure, as repeatedly shown by courts, renders disciplinary action legally suspect and morally untenable.

The insistence on a domestic enquiry as a condition precedent to termination for misconduct marks Indian labour law as procedurally robust and normatively advanced. Since *Workmen of Firestone Tyre & Rubber Co. (1973)* the Supreme Court has entrenched the enquiry as a quasi-judicial safeguard, ensuring that no dismissal may be sustained without adherence to the twin pillars of natural justice notice and opportunity to be heard. This formalism, far from being a mere procedural ritual, functions as a substantive guarantee against managerial arbitrariness, thereby legitimising disciplinary authority within a constitutional rule-of-law framework.

Comparatively, common law jurisdictions such as the United Kingdom rely on *ex post* review through doctrines like the "band of reasonable responses," while Australia emphasises the fairness of process without mandating an enquiry stricto sensu. Continental systems, notably France and Germany, build corrective and rehabilitative safeguards into their disciplinary architecture but often stop short of requiring a quasi-judicial enquiry. Similarly, China imposes codified procedural burdens on employers but relies on documentary processes rather than adjudicative hearings.

In this comparative light, India's model stands out for its insistence on structured adjudication prior to dismissal. Yet, it may profitably borrow from European practice by incorporating rehabilitative and proportionate measures, thereby complementing procedural fairness with substantive compassion.

4. SUSPENSION AND PUNISHMENT: THE IMPERATIVE OF PROPORTIONALITY AND PROCEDURAL FAIRNESS

The imposition of punishment for misconduct lies at the heart of the disciplinary regime within industrial jurisprudence. While the employer retains managerial prerogative to enforce discipline, this power is circumscribed by principles of fairness, reasonableness, and proportionality. The jurisprudential evolution of Indian labour law has significantly eroded the archaic notion of the master's unfettered right to punish, replacing it with a regulated framework where punitive action must be demonstrably just, measured, and procedurally sound.

The relationship between misconduct and punishment is foundational but complex. Though standing orders under the Industrial Employment (Standing Orders) Act, 1946 now subsumed under the Industrial Relations Code, 2020 typically classify punishments as minor or major, they do not correspondingly categorize misconduct (with limited exceptions, such as in the banking industry). This asymmetry leaves room for the application of a wide range of punishments to a broad spectrum of misconduct. However, such discretion is not absolute. The proportionality principle, now firmly embedded in both service and labour jurisprudence, mandates that the punishment imposed must be commensurate with the gravity and nature of the misconduct, assessed in light of the surrounding circumstances.

This doctrinal requirement of proportionality is not merely a moral exhortation it is a legal imperative. In *Ranjit Thakur* v. *Union of India (1987)*, the Supreme Court held that the punishment must not be so disproportionate to the offence as to shock the conscience of the court. Though the case pertained to military service, the proportionality doctrine has been consistently invoked in labour matters as well. The disciplinary authority, therefore, must carefully evaluate not only the misconduct *per se*, but also contextual factors such as the employee's prior record, intent, provocation, work conditions, and psychological stressors. A mechanical or vindictive approach to punishment violates the constitutional ethos of fairness under Article 14 and the procedural guarantees of Article 21.

Illustratively, a workman may, under extreme fatigue or stress in a high-speed assembly line, use intemperate language toward a supervisor. While such behaviour may fall within the definitional scope of 'misconduct', imposing a severe punishment such as dismissal without considering the psychological context or absence of malice would render the action manifestly disproportionate. Conversely, repeated instances of abusive behaviour, despite prior warnings, may warrant a sterner response. The principle that emerges is that punishment is not a one-size-fits-all proposition, it must be tailored to the specific factual matrix.

This judicial sensitivity finds expression in *Hind Construction & Engineering Co. Ltd.* v. *Workmen(1965)*, where the Supreme Court underscored the importance of a contextualised understanding of misconduct. The Court held that the employer must differentiate between a momentary lapse and a pattern of insubordination. Likewise, in *Delhi Transport Corporation* v. *DTC Mazdoor Congress (1991)*, the Court emphasised that past conduct and extenuating circumstances must be taken stock while determining the quantum of punishment. The punitive measure must operate not as a tool of retribution but as a calibrated response aimed at correction and deterrence.

A further doctrinal safeguard lies in the distinction between "gross misconduct" and "trivial transgressions". In practice, many employers invoke standard model standing orders which prescribe dismissal as the default penalty for several types of misconduct. Yet, the Supreme Court has made it clear that model standing orders are not sacrosanct, the disciplinary authority must apply its mind independently and exercise discretion judiciously. In *Bharat Iron Works* v. *Bhagubhai Balubhai Patel (1976)*, the Court reiterated that while employers are not bound to prove misconduct beyond reasonable doubt, punishment must still be proportionate and should not result from a perfunctory or prejudiced enquiry.

Where certified standing orders of a company are absent, the Model Standing Orders under the Industrial Employment (Standing Orders) Central Rules, 1946 continue to apply, as per Section 14(5). Non-compliance with mandatory procedural safeguards laid down under these rules such as providing an opportunity for representation, access to evidence, and a reasoned order renders the disciplinary action void. In *Machine Tools & Ancillaries Castings (P) Ltd.* v. *Addl. Labour Court, Madras (1982)*, the Madras High Court invalidated a dismissal order on this very basis, reinforcing the principle that procedural

compliance is not a mere technicality, but a substantive right flowing from the broader constitutional guarantee of fair procedure.

Suspension, though not punitive per se, often operates as a precursor to disciplinary proceedings. The courts have held that while an employer has the inherent right to suspend a workman pending enquiry, such suspension must be reasonable in duration and accompanied by subsistence allowance as mandated under law. A prolonged suspension, particularly without pay, may be construed as indirect punishment and has been frowned upon in judicial pronouncements. In *J.K. Synthetics Ltd.* v. *K.P. Agrawal (2007)*, the Supreme Court held that denial of subsistence allowance during suspension amounted to violation of Article 21, as it deprived the employee of the means to live with dignity.

Taken together, these doctrinal developments reinforce a rights-based framework for disciplinary action in industrial law. They reflect a departure from the colonial legacy of absolute managerial authority and align the disciplinary process with the democratic values of fairness, reasoned decision-making, and proportionality. In a labour ecosystem marked by structural asymmetries of power, these safeguards are indispensable to prevent arbitrary or excessive use of disciplinary powers.

Therefore, the core legal proposition remains that while the employer is empowered to discipline, such power must be exercised within a legal and constitutional framework that respects the dignity of labour. Disciplinary punishment, if it is to withstand judicial scrutiny, must not only rest on a fair enquiry but must also pass the test of proportionality and reasonableness. The industrial adjudicator, be it the labour court or tribunal, is constitutionally and statutorily empowered to intervene where such punishment is found to be capricious, excessive, or procedurally flawed. This reflects the maturation of Indian labour jurisprudence into a rights-based, quasi-constitutional regime one that balances managerial prerogative with the protection of human dignity in the workplace.

5. REINTRODUCING JOINT MANAGEMENT COUNCILS: TOWARDS A SUPPORTIVE INDUSTRIAL RELATIONS FRAMEWORK

The Indian experiment with Joint Management Councils (JMCs) in the late 1950s was an ambitious step toward institutionalising workers' participation in management. Though the initiative faltered due to its advisory nature and lack of statutory authority, the underlying vision remains profoundly relevant. In an era marked by increasing workplace stress, precarious employment, and adversarial labour relations, it is imperative that India reintroduce JMCs, but this time with binding statutory powers modelled on the German *Betriebsrat* (works council) established under the Works Constitution Act, 1952 (Betriebsverfassungsgesetz) (Weiss, M., & Schmidt, M., 2008).

A revitalised JMC should be vested with consultative and participatory authority on core aspects of workplace governance, including disciplinary processes. Specifically, before a workman is terminated for misconduct, the employer should be obligated to consult the JMC. The council, composed of elected worker representatives and employer nominees, would not only review the fairness of the allegations but also engage in counselling with the workman. This approach recognises that misconduct may not always stem from inherent delinquency but often from circumstantial pressures, psychological stress, or lack of skill adaptation.

By institutionalising a supportive and rehabilitative approach, the JMC can function as a mediator between punitive managerial prerogative and the humane ideals of industrial justice. Such a process would ensure that termination becomes a measure of last resort, preceded by opportunities for corrective training, behavioural support, and dialogue. In turn, this would foster a culture of trust, transparency, and shared responsibility within enterprises.

This proposed framework aligns with the constitutional mandate under Article 43A of the Indian Constitution (introduced by the 42nd Amendment, 1976), which directs the State to secure workers' participation in management. It also resonates with the ILO's concept of "decent work" and its emphasis on social dialogue as articulated in the ILO Declaration on Social Justice for a Fair Globalization, 2008. By emphasising corrective over punitive measures, JMCs could humanise disciplinary jurisprudence and reinforce industrial democracy.

Reintroducing empowered JMCs would thus bridge the gap between India's constitutional mandate under Article 43A workers' participation in management and the current adversarial industrial climate. If aligned with Germany's co-determination ethos, such councils could transform Indian workplaces into

spaces of cooperative industrial democracy, where discipline and compassion are harmoniously balanced, and industrial relations are significantly strengthened.

6. CONCLUSION

In a Market economy, labour relations as one of the most fundamental and important social relation, play a crucial role in the harmonious and stable development of society and economy. The Unilateral termination of labour contract by employer is a significant way to end labour relation which may not only effect the normal operation and management order of employers but also directly impact survival rights, interests and career development of workers (Ojo, A., 2025).

The jurisprudence of discipline in Indian labour law represents one of the most intricate intersections of industrial necessity and constitutional morality. What began historically as an unfettered prerogative of the master to punish the servant has, through legislative interventions and judicial innovations, been progressively transformed into a framework governed by fairness, proportionality, and due process. The evolution from absolute managerial control to regulated disciplinary authority is emblematic of India's broader journey towards embedding social justice into its economic order. Yet, this transformation remains incomplete, as tensions between managerial prerogative and worker dignity continue to animate both industrial relations and judicial discourse.

Central to this framework is the recognition that misconduct and punishment cannot be divorced from each other, and that the legitimacy of discipline lies not in the severity of sanctions but in their proportionality and procedural fairness. Courts have consistently emphasized that punishment must not degenerate into retribution, nor discipline into domination. In *Workmen of Firestone Tyre & Rubber Co.* v. *Management (1973)*, the Supreme Court underscored that disciplinary action must be tested on the touchstone of reasonableness, while in *D.K. Yadav* v. *J.M.A. Industries Ltd (1993)*, the Court explicitly linked domestic enquiries with Article 21's guarantee of livelihood, thereby constitutionalizing industrial discipline. These decisions mark a doctrinal shift whereby natural justice is no longer a mere procedural safeguard but a substantive guarantee against arbitrary industrial power.

At the same time, disciplinary jurisprudence cannot be reduced to a narrow legal-technical exercise. It functions as a mediating mechanism between two structural imperatives: the employer's need for efficiency and order, and the worker's claim to dignity and security. Domestic enquiries while designed to balance these imperatives often fall prey to formalism or managerial bias. Where such enquiries become perfunctory, the law has stepped in to insist on substantive fairness.

The way forward lies in constructing a disciplinary framework that is not adversarial but dialogic where domestic enquiries are conceived not merely as quasi-judicial rituals but as participatory platforms that give workers a meaningful voice. Comparative experiences, such as Germany's *Betriebsrat* (works council) system of co-determination, or the UK's "band of reasonable responses" test under the Employment Rights Act 1996 (*Iceland Frozen Foods Ltd* v. *Jones, 1983)*, show that embedding workers in consultative processes enhances legitimacy while reducing industrial conflict. Indian labour law must similarly evolve towards collaborative disciplinary mechanisms where counselling, mediation, and restorative practices play a greater role than punitive sanctions.

Ultimately, the legitimacy of disciplinary jurisprudence depends on whether it can mediate industrial relations without reproducing hierarchies of domination. For this, courts must continue to refine the doctrine of proportionality, legislatures must institutionalize safeguards against arbitrary managerial power, and employers must cultivate a culture of fairness rather than fear. If discipline is to serve as a foundation of industrial peace and productivity, it must be grounded in justice, dignity, and mutual respect. Only then can Indian labour jurisprudence truly embody the constitutional vision of a just social order in which both economic growth and human rights are secured in tandem.

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