Shabnoor

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.1337 OF 2007

Reeta Mukesh Sehgal
C-11,Flat No.101, Mandar CHS,
Vasant Vihar Complex,
Pokhran Road No.2, Thane (W) 400 601. … Petitioner

V/s.

1. **Union Bharat Sabha**
   Through the Secretary,
   Station Road, Bhandup (W),
   Mumbai – 400 078.
2. **Ramanand Arya D.A.V. College,**
   Through the Principal,
   AT Datar Colony, Bhandup (W).
   Mumbai – 400 042.
3. **University of Mumbai,**
   Fort Mumbai.
4. **The Joint Director of Higher Eduction**
   Mahapalika Marg, Mumbai,
5. **D.A.V. College Trust &**
   Management Society
   S/at: Chitragupta Road, New Delhi.
   Through Regional Director,
   D.A. V. Regional Office,
   Plot No.267/268, Sector 10,
   New Panvel 410206.
6. **Ramanand Tokaram Charitable Trust,**
   Economic Transport Organisation,
   2nd Floor, 1 Flank Road, Chinchbunder,
   Mumbai – 9.

… Respondents

Mr. Mihir Desaid, Sr. Advoate i/b Mr. N. R. Bubna, for the Petitioner.

Mr. C. R. Sadasivan a/w Ameeral Hasan, for Respondent Nos.1 and 2.

Ms. Itisha Ranka i/b M. P. Vashi & Associates, for Respondent No.5.

CORAM : AMIT BORKAR, J.

RESERVED ON : FEBRUARY 12, 2026

PRONOUNCED ON : FEBRUARY 24, 2026

JUDGMENT:

1. The Petitioner has instituted the present writ petition challenging the judgment and order dated 28 September 2006 passed by the College Tribunal in Appeal No. 9 of 2006. By the said order, the Tribunal partly allowed the appeal and held the Petitioner liable for termination of service.

2. The Petitioner states that she possesses M.A. and M.Phil. qualification. She commenced her teaching career as a Lecturer at V.M.V. and J.M.T. College, Nagpur during the academic year 1982 to 1983. Thereafter, she served as a full time Lecturer at S.D. College for Women, Jalandhar during 1983 to 1984 and subsequently at H.M.V. College, Jalandhar from 8 October 1984 to 30 June 1989. The said institution was managed by the D.A.V. Management Committee. The Petitioner was appointed as a full time Lecturer on probation in Respondent No. 2 College with effect from 1 July 1989 and was confirmed upon successful completion of probation. She was thereafter appointed as In Charge Principal with effect from 1 June 1994 and subsequently as Principal on

probation for one year with effect from 25 June 1995. Her appointment was approved by Respondents No. 3 and 4.

3. During her tenure as Principal, the Petitioner noticed that Shri Mahesh Kapur, son of the then Secretary of Respondent No. 1 Trust, was conducting coaching classes wherein lecturers of Respondent No. 2 College were compelled to teach and students were required to enroll and pay donations. Complaints regarding these activities were published in newspapers and were also submitted to the Joint Director of Education. A writ petition was also filed before the High Court by the Forum for Fairness in Education challenging such activities. The Petitioner reported these matters to Shri Rajpal Kapur, the then Secretary of Respondent No. 1 Trust, and other authorities. She was informed that Shri Rajpal Kapur supported the activities of his son. A fact finding team from the University of Mumbai visited the College, during which Shri Rajpal Kapur directed the Petitioner to tutor students to deny the allegations, failing which she would face termination. He also directed termination of teaching and non teaching staff despite positive reports submitted by the Petitioner and retained his daughter in law notwithstanding an unsatisfactory service record.

4. It is further alleged that Shri Rajpal Kapur used the premises and funds of Respondent No. 2 College for private coaching classes. The Petitioner's refusal to support such conduct was treated as insubordination. The management extended her probation in the year 1996, declined confirmation beyond 31 May 1997 and sought to revert her to the post of Lecturer. The Petitioner challenged the said action before the Tribunal and the

appeal was allowed. However, during the pendency, she was suspended as Principal by letter dated 9 June 1997 and was paid suspension allowance in the Principal's scale.

5. In the elections of Respondent No. 1 Trust held in 1998, Shri H.R. Duggal became Secretary. By letter dated 5 February 1999, the Petitioner's suspension was revoked and the departmental enquiry was withdrawn. She was directed to resume duties as Lecturer on 12 February 1999. Subsequent proceedings were compromised and by order dated 24 December 1999 she was reappointed as Principal of Respondent No. 2 College. The management thereafter confirmed her appointment and condoned any break in service.

6. From 1999 onwards, the College recorded progress. Grants were received, the building was painted in the year 2000, self financing courses namely B.M.S., B.Sc. I.T. and M.Com. were introduced during 2001 to 2002, fee enhancement for the junior college science unit was approved and administrative functions were computerized. During this period the Petitioner received no adverse memos till August 2003. In the elections held in 2003, Shri Rajpal Kapur re entered the Trust as Vice President. Shri D.D. Sharma became Secretary, Shri H.R. Duggal Treasurer and Shri Vinod Sharma Joint Secretary. It is alleged that Shri Vinod Sharma, in association with Shri Rajpal Kapur, began issuing memos and undermining the Petitioner's authority. In the elections of 2004, Shri Vinod Sharma, Shri Rajpal Kapur and Shri Mahesh Kapur were elected and six of the eleven members were related to either Shri Rajpal Kapur or Shri Vinod Sharma, thereby securing control

over Respondent No. 1 Trust. The Petitioner alleges that thereafter she was harassed by withdrawal of office facilities, coercion to sign cheques without tenders, humiliation and delegation of her duties to subordinates. Arrears under the Fifth Pay Commission were also not released despite sanction.

7. On 15 April 2004 the management initiated a departmental enquiry and suspended the Petitioner. Mr. V.N. Malya was appointed Inquiry Officer on 30 April 2004 and served a charge sheet dated 17 May 2004. The Petitioner submitted a detailed reply and requested production of relevant documents for defence. The Inquiry Officer rejected the request and supplied only two incomplete documents out of fifteen sought.

8. During the enquiry, the Inquiry Officer allegedly failed to properly record evidence and displayed bias. The Petitioner submitted written arguments pointing out procedural defects. Nevertheless, by report dated 12 February 2006 she was held guilty of all charges and by order dated 31 March 2006 the management dismissed her from service. The Petitioner filed Appeal No. 9 of 2006 before the Presiding Officer, Mumbai University and College Tribunal. Respondents No. 1 and 2 appeared and filed affidavits whereas Respondents No. 3 and 4 remained absent and the matter proceeded ex parte. By judgment dated 28 September 2006 the Tribunal partly allowed the appeal and held the Petitioner liable for termination.

9. Aggrieved by the said judgment and order, the Petitioner has invoked the jurisdiction of this Court under Articles 226 and 227

of the Constitution of India by filing the present writ petition.

10. Mr. Desai Learned Senior Counsel for the Petitioner submitted that out of thirteen allegations forming the basis of the charges of misconduct involving moral turpitude and persistent negligence of duty, the Tribunal ultimately held only four allegations to be proved. The said allegations are as follows.

> (i) (a) Being instrumental to misrepresent the University and offices of the Joint Director of Higher Education about continuity of service as Principal. (b) Making false entries in the service book about the continuity of service as Principal. (Para 5 to 5.5 of the Statement of allegations)
>
> ii) Blocking efforts of the management to systemize the administration (Partly proved)
>
> iii) Misuse of official position as Principal of the college by forwarding copies of certain letters to the non-office bearers of the management without any justification.
>
> iv) Not making college premises available to other institutions for conducting their examinations.

11. Learned Senior Counsel invited attention to the finding regarding alleged misrepresentation about continuity of service as Principal. He submitted that in earlier proceedings, after the Petitioner was placed under suspension from 10 June 1997 and a departmental enquiry was initiated, the parties entered into a settlement dated 24 December 1999. Under the settlement the Petitioner withdrew allegations against the College and

management and was reappointed as Principal with effect from 24 December 1999. Subsequently, by order dated 17 October 2002, passed on an application of the Secretary of the respondent management, the University of Mumbai regularized and validated the Petitioner's service as Principal by approving her appointment on probation from 24 June 1995. Consequently the earlier University letter dated 1 March 2000 approving appointment on probation from 24 December 1999 stood cancelled. Reliance was placed on clauses 2, 3 and 4 of the consent terms to support this position.

12. It was further submitted that by letter dated 3 October 2000 the Petitioner was confirmed as Principal. Although technically there was interruption in service from 1 June 1995, the Petitioner interpreted the consent terms to mean that her service as Principal stood treated as continuous from that date.

13. In respect of the allegation regarding false entries in the service book, it was submitted that the corrections were made by the clerk on her instructions pursuant to guidance received from the Head Clerk in the office of the Joint Director of Education, who had directed that such corrections be carried out.

14. It was contended that no personal benefit accrued to the Petitioner by making such entries. In the absence of any advantage derived by her, the charge cannot constitute a foundation for the punishment of compulsory retirement.

15. With regard to the allegations concerning forwarding copies of letters to certain office bearers of the management and refusal

to permit the college premises to be used by other institutions for examinations, it was submitted that these acts do not justify the extreme penalty of compulsory retirement. Forwarding copies of correspondence cannot be treated as misconduct involving moral turpitude. The decision to allow use of college premises for external examinations falls within the administrative discretion of the Principal. At the highest, it may amount to an error of judgment in administrative functioning and does not constitute misconduct warranting compulsory retirement. On these grounds, it is submitted that the impugned order deserves to be quashed and set aside.

16. Per contra, Mr. Sadasivam learned Counsel for the Respondents submitted that once the charges against the Petitioner stand proved, interference by this Court is not warranted unless the punishment imposed is shockingly disproportionate to the misconduct established. He further submitted that the proved charges squarely fall within the statutory definitions of "misconduct" and "moral turpitude" under Section 439D of the governing statute, which provides that misconduct includes breach of service conditions and violation of the Code of Conduct, moral turpitude includes behaviour derogatory to the dignity of a teacher, and willful and persistent negligence of duty includes dereliction of duties, unauthorized absence and failure to discharge statutory obligations.

17. Learned Counsel submitted that on a plain reading of the definitions, the acts attributed to the Petitioner clearly fall within misconduct and moral turpitude and therefore the findings

recorded by the Enquiry Officer are legal and proper. However, it was fairly stated that the Petitioner cannot be held guilty of willful and persistent negligence of duty and the finding on that aspect deserves to be confined accordingly.

18. It was further submitted that the misconduct involved deliberate application of correction fluid to entries in the Petitioner's own service book. According to the Respondents, the Petitioner had ceased to function as Principal for nearly four years after reversion to the post of Senior Lecturer and the relevant entries were altered to conceal the true position. The entries were modified so as to reflect entitlement to the higher pay scale of the post of Principal and thereby secure higher salary and consequential monetary benefits. Such conduct, committed while holding the office of Principal and Head of the institution, cannot be treated as inadvertent and demonstrates an intention to obtain unlawful pecuniary advantage including post retirement benefits.

19. The Respondents further contended that the allegation regarding existence of three managements is misconceived. The Management is Uttari Bharat Sabha and the institution is Ramanand Arya D.A.V. College, Mumbai affiliated to the University of Mumbai. The issue of multiple trusts has been raised for the first time in the present proceedings. In earlier proceedings before the Tribunal the Petitioner had impleaded only the Management and the College along with the University and the Joint Director of Education. The parties now added as Respondents Nos. 2 and 3 have no connection with the institution and were not subjects of enquiry.

20. It was submitted that the scope of judicial review under Articles 226 and 227 of the Constitution is confined to examination of the decision-making process. This Court does not exercise appellate jurisdiction and cannot re-appreciate evidence considered by the Enquiry Officer. Findings recorded on the basis of admissible evidence are entitled to deference.

21. The Respondents further submitted that merely because certain charges are not proved, penalty can still be imposed for charges that are established. The relevant consideration is proportionality of punishment. The Presiding Officer, after evaluating the gravity of misconduct and evidence on record, substituted the punishment of dismissal with termination which was appropriate in the circumstances. The findings of serious misconduct recorded by the Enquiry Officer were specifically affirmed in accordance with the Maharashtra Universities Act, 1994.

22. On these grounds it is submitted that the challenge to the enquiry findings and the penalty is untenable. The findings of the Enquiry Officer and the order of the Tribunal are legal, proportionate and in conformity with statutory provisions and settled principles governing judicial review.

Analysis of Submissions and Evidence:

23. I have read the enquiry record, the appeal record and the material placed before the Tribunal. I will state findings and reasons in simple terms.

Legal Frame And Standard:

24. Misconduct and moral turpitude have to be understood in the setting of a teaching institution. The statute does not treat every mistake as misconduct. It refers to breach of service conditions and breach of the code of conduct. That means an act done knowingly in disregard of duties attached to the post. A teacher and more so a Principal holds a position of trust. Students, staff and authorities rely on the correctness of records and fairness of conduct. Therefore behaviour which lowers the credibility of the institution or damages confidence in its head is treated seriously. Moral turpitude in this context does not require criminal behaviour. It is enough if the conduct shows dishonesty, abuse of position or a tendency to secure personal advantage by improper means. Any act which brings down the dignity expected from a teacher falls within that description.

25. The law also speaks of willful and persistent negligence. That expression has two parts. Negligence alone may be a lapse. But when duties are ignored repeatedly, or avoided deliberately, it becomes misconduct. For example not performing assigned work, refusing to follow lawful directions, or remaining absent without authority. The emphasis is on intention and continuity. The authority has to see whether the conduct was accidental or whether it was conscious and repeated.

26. In disciplinary proceedings the employer carries the burden to establish the charge. However the employer is not expected to prove the case as in a criminal trial. Strict rules of evidence do not

apply. What is required is credible material which a reasonable person would accept. Documents, surrounding circumstances and consistent testimony can together form proof. If the material points clearly towards guilt, the finding can stand even if another view is possible.

27. At the same time fairness of procedure is essential. The employee must know the accusations, must receive relevant documents, and must get an opportunity to answer and cross examine. The enquiry officer must act impartially and record reasons. When these basic safeguards are followed and the conclusion is supported by reliable material, the Court ordinarily accepts the finding. The Court interferes only when the conclusion has no evidence behind it or the procedure is fundamentally unfair.

Misrepresentation about continuity of service.

28. The Petitioner placed heavy reliance on the settlement dated 24 December 1999 and on the later decision of the University regularizing her services from 24 June 1995. Those documents are part of the record and there is no dispute about their existence. They certainly show that at certain stages the management and thereafter the University chose to give her a benefit regarding her appointment. However, that is only the starting point. The real issue is different. The Court has to see whether after those developments the Petitioner herself created or attempted to create a record showing uninterrupted service, even though the actual position contained a break. In other words, the question is not what benefit she was once granted, but whether she later tried to

expand that benefit by her own acts.

29. For that purpose the enquiry looked into the correspondence of the relevant period and the service book maintained by the institution. The service book is an official document and it records service history year by year. During the enquiry it was noticed that certain entries were not merely corrected but were physically altered. Portions were erased and rewritten. Because the issue was serious, the alterations were examined carefully. Evidence was taken from office clerks who handled the book and from the head clerk who supervised them. They explained when the entries were changed and on whose instructions the changes were made.

30. The enquiry officer accepted the testimony of the staff members who consistently stated that the alterations were carried out under the direction of the Petitioner and that the purpose was to show continuity as Principal. The Tribunal later went through the same material. It compared the sequence of letters sent to authorities with the dates of the altered entries. The pattern was not random. The changes appeared at points where proof of continuity was required. That surrounding circumstance weighed with the Tribunal. It concluded that the conduct was intentional and not a routine clerical correction.

31. The existence of the settlement and the University order does not answer this aspect. Those documents might justify a claim made openly before the competent authority. They do not permit a person to rewrite official records to strengthen the claim beyond what was formally granted. If the service book is altered and

authorities are addressed on the basis of that altered record, the act becomes a positive step taken by the individual. On the total material, including oral evidence and documentary pattern, there was adequate basis to hold that the representation was knowingly false. The finding of deliberate misrepresentation therefore rests on evidence and cannot be termed arbitrary.

False entries in the service book and use of whitener.

32. The service book itself became the central piece of evidence. It was produced before the enquiry and the entries were examined page by page. Certain portions were not simple overwriting or routine correction. They were first covered with correction fluid and then fresh writing was inserted. The new writing showed continuous service as Principal and correspondingly a higher pay scale. Because service book entries directly affect salary and future benefits, any change in them carries significance.

33. The clerk who handled the record was examined. He did not deny making the corrections. He stated clearly that he acted on instructions of petitioner, and he identified from her as a person whom those instructions came. The Petitioner attempted to explain that the clerk was only following directions from the Head Clerk in the office of the Joint Director. The enquiry therefore called for the evidence of that Head Clerk. His statement did not support the Petitioner. He did not confirm issuing any instruction to change the entries so as to show continuity of tenure or change of scale. This contradiction was considered carefully. When the person alleged to have given the direction denies it, the explanation loses weight.

34. The Tribunal also looked at the practical effect of the altered entries. Once the service book reflected continuous service and a higher scale, the pay fixation naturally moved on that basis. Salary calculations and related benefits followed the recorded entry. Even if the advantage was for a limited period, it still flowed from the altered record. That circumstance strengthens the inference that the change was not casual. It served a purpose.

35. A Principal is the custodian of institutional records. When the person at the head of the institution allows or causes official records to be physically changed in a manner affecting pay and service position, the act cannot be brushed aside as routine office work. It affects trust in the institution's functioning. Teachers are expected to maintain integrity in academic and administrative matters. Altering a statutory service record to improve personal position lowers that standard. For that reason the enquiry officer and the Tribunal treated the alteration, along with the surrounding circumstances, as clear proof of misconduct and behaviour unbecoming of a teacher. Their conclusion rests on the nature of the act and the benefit arising from it, not merely on suspicion.

Motive and benefit.

36. The Petitioner repeatedly contended that she never gained any money and that no permanent benefit ultimately accrued to her. That submission required closer scrutiny. The enquiry did not proceed on assumption. It collected pay fixation statements, salary slips and internal correspondence relating to fixation of scale after the altered entries appeared in the service book. These documents

showed that once continuity as Principal was reflected, the pay was calculated on that footing for a certain period. Even if later corrected or disputed, for that intervening time the higher scale operated.

37. The Tribunal did not look merely at theoretical entitlement. It examined whether the altered record actually influenced payment. The material demonstrated that the service book entries became the foundation for calculating salary and allowances. The record further indicated that such entries could affect pensionary calculations and other terminal benefits if left uncorrected. Therefore the advantage need not be lifelong to be real. A temporary gain obtained by manipulating official records still remains a gain flowing from the act.

38. In disciplinary matters the Court does not insist on mathematical proof of enrichment. It is sufficient if the circumstances reasonably show that the act was capable of producing financial benefit and in fact did so for some period. Here the link between the altered entry and the higher pay status is evident from the documents and supported by witness statements. From this material a reasonable authority can infer that the changes were made to obtain monetary advantage. Such an inference is not speculative but arises naturally from the sequence of events. The presence of this motive removes the act from the category of a technical lapse and places it in the category of deliberate wrongdoing. The Tribunal was therefore justified in treating the misconduct as serious rather than trivial.

Obstruction of administrative reform and delegation issues.

39. The management did not rely on a single isolated incident. It placed before the enquiry a series of communications, office notes and memos showing continuing friction in day to day administration. According to the management, directions issued by the governing body regarding office procedure, maintenance of records and coordination of staff were either not implemented or were delayed without satisfactory explanation. Some instructions were returned with objections not raised at the proper forum. In a few cases, the directions were simply not carried out. The record contains reminders sent by the office bearers and replies sent by the Petitioner disputing authority or questioning necessity.

40. The Petitioner explained that these were normal administrative disagreements. She stated that as Principal she had authority to decide academic and administrative matters and she exercised that authority in the interest of the institution. That position is correct to an extent. A Principal is not a mere post office. She can disagree and can place her view before the management. But there is a limit. Once a lawful decision is taken by the competent body, the Principal is expected to implement it and then pursue clarification through proper channels. Persistent refusal to act, or selective compliance, cannot be described as academic autonomy.

41. The enquiry officer therefore looked at the conduct as a whole and not in fragments. Witnesses from the office staff and some members not directly aligned with either side were

examined. They spoke about repeated non-cooperation, delay in signing essential papers, and resistance to administrative restructuring that had already been approved. Their testimony showed a pattern rather than a stray event. The Tribunal reappraised this material and found it consistent.

42. When such behaviour appears along with proven alteration of official records, the nature of conduct changes. It reflects not a professional disagreement but a deliberate stance against the functioning of the administration. The cumulative effect of these acts indicates failure to discharge responsibilities attached to the post. Therefore the conclusion that the Petitioner obstructed administrative functioning and committed serious dereliction of duty rests on evidence and cannot be termed unreasonable.

Misuse of office by forwarding letters to non-office bearers and refusal to allot premises.

43. The Petitioner did not deny that she circulated certain letters. Her stand was that she acted openly so that students and staff would know what was happening and that she was safeguarding institutional interest. The Court does not doubt that transparency in administration is important. However, the nature of the documents circulated cannot be ignored. The management produced copies of the same letters along with internal notes showing they were part of ongoing deliberations of the governing body. They related to disciplinary matters, financial decisions and internal differences. Such communications are normally restricted to those who are required to deal with them.

44. When these papers were circulated beyond the authorised circle, the effect was immediate. The record shows complaints from teachers and office staff stating that they were being drawn into internal disputes. The issue therefore is not mere sharing of information. A Principal holds a position where she has access to confidential material. With that access comes the duty to use it cautiously. If sensitive correspondence is distributed in a manner that exposes internal disputes and weakens institutional discipline, the act cannot be treated as harmless openness.

45. The same approach applies to the refusal to permit use of the college premises for examinations conducted by other recognised bodies. The management placed requests received from such institutions and the replies declining permission. No convincing administrative reason was recorded in several of those replies. The refusal was repeated even when the dates and arrangements were routine and had been permitted earlier. This resulted in inconvenience to outside institutions and complaints to higher authorities. The enquiry officer considered the pattern rather than a single refusal and concluded that the conduct was intentional.

46. The Tribunal re-examined the letters and the surrounding circumstances. It found that the circulation of confidential correspondence and the persistent refusal of premises were not isolated administrative choices but part of a course of action inconsistent with the responsibilities of a Principal. The conclusion that the Petitioner misused her position therefore rests on documentary material and witness statements. It cannot be said that the finding lacks support in the record.

Procedural objections by the Petitioner.

47. The Petitioner argued that the enquiry itself was unfair because some documents were not supplied and the Inquiry Officer was biased. The Court has to examine this carefully because fairness of procedure is essential in disciplinary action. The record of the enquiry shows that the Petitioner was served with the charge sheet, she filed a written reply and she participated in the proceedings on several dates. Witnesses were examined in her presence. She was permitted to question them and she did cross-examine important witnesses including the office staff who spoke about the service book entries and administrative issues.

48. It is true that she demanded a large number of additional documents. The Inquiry Officer allowed some requests and declined others. The reasons for refusal are also recorded. In certain cases the documents were internal deliberations not connected with the charges. In some cases they related to matters occurring long after the alleged incidents. The management explained that those papers had no bearing on the specific allegations. The mere fact that every requested paper was not supplied does not by itself make the enquiry unfair. The relevant question is whether the refusal prevented her from answering the charges. The Tribunal examined this aspect and found that the core material on which the charges rested had been made available.

49. The allegation of bias was also considered. Apart from general apprehension, no concrete instance was shown where the Inquiry Officer refused to hear her, curtailed cross-examination or prevented her from filing submissions. On the contrary the proceedings show that she filed written arguments at the end and they were taken on record. The Tribunal, functioning as an appellate body, rechecked the procedure and concluded that there was no denial of reasonable opportunity.

50. In disciplinary law not every irregularity invalidates the entire enquiry. Only those defects which go to the root and cause real prejudice require interference. Here the Petitioner participated fully, questioned witnesses and presented her case. The procedural objections therefore remain technical in nature. They are not sufficient to discard findings which otherwise rest on substantial evidence.

Proportionality of penalty.

51. The definitions of “misconduct” and “moral turpitude” as provided under Section 439D of the relevant statute, which reads as under:

> "(a) "Misconduct" shall include the following: (i) Breach of the terms and conditions of service laid down by the Statutes. (ii) Violation of the Code of Conduct.
>
> (b) "Moral turpitude" shall include the following: Any misbehaviour derogatory to the status and dignity of a teacher.

(c) "Willful and persistent negligence of duty" shall, among other things include the following: (i) Dereliction of duties like not engaging the allotted classes or not completing the prescribed syllabus; (ii) Persistent absence from duty without previous permission. (iii) Failure to discharge any of the duties laid down by the Statutes."

52. The statute draws three separate but related ideas. Misconduct means breach of service conditions or breach of the code of conduct. Moral turpitude goes a step further. It refers to behaviour which lowers the dignity expected from a teacher. Willful and persistent negligence refers to repeated failure to perform assigned duties. These expressions are not empty labels. They mark different levels of wrongdoing. Every lapse is not moral turpitude. Only conduct showing dishonesty, abuse of position or serious moral failing reaches that level.

53. Courts have repeatedly explained what moral turpitude means. It is not defined in exact words, so its meaning comes from the nature of the act. One early decision explained that conduct contrary to honesty, fairness and good morals falls in that category. If a person owes a duty to society or to another person and knowingly acts against it, that conduct shows moral blameworthiness. The emphasis is on the mental element. A mistaken act or a technical violation is not enough. There must be conscious wrongdoing.

54. The Courts have, on several occasions, examined whether a particular offence involves moral turpitude. In *Baleshwar Singh v.*

District Magistrate and Collector, Banaras, AIR 1958 Allahabad 71, the learned Single Judge considered whether an offence under section 182 of the Penal Code, 1860 constitutes an offence involving moral turpitude. In paragraphs 23, 24 and 25 of the report, the learned Judge observed as follows:

"23. The expression 'moral turpitude' is not defined anywhere. But it means anything done contrary to justice, honesty, modesty or good morals. It implies depravity and wickedness of character or disposition of the person charged with the particular conduct. Every false statement made by a person may not be moral turpitude, but it would be so if it discloses vileness or depravity in the doing of any private and social duty which a person owes to his fellowmen or to the society in general. If therefore the individual charged with a certain conduct owes a duty, either to another individual or to the society in general, to act in a specific manner or not to so act and he still acts contrary to it and does so knowingly, his conduct must be held to be due to vileness and depravity. It will be contrary to accepted customary rule and duty between man and man.

24. Judging the position in the background of the foregoing discussion, section 182(a) in declaring that giving of false information to a public servant with the intention that the public servant may do or omit to do anything which he ought not to do or omit, if the true state of facts respecting such information were given to him or known to him, has enjoined a duty on persons to abstain from giving such information etc. to a public servant. A duty has been cast on individuals not to act in a certain manner

and detract public servant from their normal course. This is a duty which every individual who is governed by the above law owes to the society whose servant every public servant obviously is. An individual's conduct in giving false information to a public servant in the circumstances stated in section 182(a) too is therefore contrary to justice, honesty and good morals and shows depravity of character and wickedness.

25. Therefore, an offence under section 182 Penal Code, 1860 whether falling under Clause (a) or Clause (b) is an offence involving moral turpitude. Baijnath, who admittedly had been convicted for an offence under this section was therefore disqualified to be appointed as Nyaya Panch under section 5(a) of the Act. His appointment accordingly is invalid."

55. Subsequently, in *Mangali v. Chhakki Lal*, AIR 1963 Allahabad 527, another learned Single Judge of the Allahabad High Court expressed reservation regarding certain observations made in *Baleshwar Singh* on the question of offences involving moral turpitude. In paragraphs 5 and 6 of the report, the learned Judge held thus:

"5. With great respect, it appears to me that some of the observations made in these decisions have been too widely stated and if followed literally may make every act punishable in law an offence involving moral turpitude. That, however, could not be the intention with which those observations were made. From consideration of the dictionary meaning of the words 'moral' and 'turpitude' as well as the real ratio decidendi of the cases the principle which emerges appear to be that the question whether a

certain offence involves moral turpitude or not will necessarily depend on the circumstances in which the offence is committed. It is not every punishable act that can be considered to be an offence involving moral turpitude. Had that been so, the qualification “involving moral turpitude” would not have been used by the Legislature and it would have disqualified every person who had been convicted of any offence. The tests which should ordinarily be applied for judging whether a certain offence does or does not involve moral turpitude appear to be; (1) whether the act leading to a conviction was such as could shock the moral conscience of society in general, (2) whether the motive which led to the act was a base one and (3) whether on account of the act having been committed the perpetrator could be considered to be of a depraved character or a person who was to be looked down upon by the society."

56. Later decisions refined this view. They cautioned that every illegal act cannot automatically be treated as moral turpitude. Otherwise the law would not use a separate expression at all. Courts therefore evolved practical tests. First, whether the act shocks the moral conscience of society. Second, whether the motive behind it is base or dishonest. Third, whether the act shows a character that people would naturally distrust. These tests are not rigid formulas but guiding principles. Each case must be judged on its own facts.

57. The distinction becomes clear from examples. A person may violate a regulatory law out of urgency or ignorance. Such a breach is still unlawful but it does not necessarily reflect moral

depravity. For instance, keeping a weapon without licence or selling goods before formal permission arrives may attract punishment, yet the conduct may lack dishonest intention. Courts have therefore held that such offences do not always amount to moral turpitude. The law looks beyond the bare act and examines the surrounding circumstances and the motive.

58. When these principles are applied to service law, the position becomes clearer. A teacher is entrusted with records, evaluation and guidance of students. Society expects fairness and integrity from that role. If a teacher knowingly manipulates official records, suppresses truth for personal gain, or abuses authority, the act strikes at the moral foundation of the profession. Such behaviour does not remain a mere breach of rules. It becomes behaviour unworthy of the position and therefore moral turpitude. On the other hand, a mere error in judgment, delay in work or misunderstanding of procedure may amount to negligence or misconduct but not moral turpitude.

59. Thus, the enquiry is always fact based. The Court must ask whether the conduct shows dishonesty or moral blame, whether it damages trust in the individual's character, and whether society would view it as serious wrongdoing. Only when these elements appear together can the act be treated as involving moral turpitude within the meaning of the statute.

60. Once the meaning of misconduct and moral turpitude is understood, the next step is to see what punishment should follow. Service law does not treat all wrongs equally. The penalty must

match the seriousness of the act. This is what the principle of proportionality means. The authority must look at the nature of the conduct, the intention behind it, and its impact on the institution before deciding the punishment.

61. If the act is only negligence, such as delay in work or failure to follow a procedure once, a minor penalty may be sufficient. Warning, censure or stoppage of increment may correct the behaviour. But when the act crosses into moral turpitude, the situation changes. Moral turpitude shows a defect of character. It affects trust. A teacher or Principal deals with students, records and public confidence. If that trust is shaken by dishonest conduct, the institution cannot function properly. In such a case retaining the person in the same position becomes difficult.

62. Courts therefore do not lightly interfere with punishment in cases involving moral turpitude. The Court does not ask whether a lesser penalty could also have been imposed. The Court only examines whether the punishment is outrageously harsh or totally unrelated to the misconduct. Where the act shows deliberate dishonesty or abuse of authority, a major penalty such as removal or termination generally falls within a reasonable range. The reason is practical. Discipline in an educational institution depends upon credibility of its head and staff. If the head of the institution is found to have acted in a manner affecting integrity, a strict penalty becomes a necessary administrative response.

63. At the same time, the authority must still consider surrounding factors. Length of service, past record, and whether

the act caused permanent damage may justify moderating dismissal into termination or compulsory retirement. That is still proportional because the person is removed from the sensitive post but not branded with the severest consequence. Therefore, in cases where moral turpitude is proved, the Court normally respects the disciplinary authority's choice of a serious penalty so long as it remains within legal limits and is not shocking to conscience.

64. After holding the charges proved, the management had imposed the extreme penalty of dismissal. When the matter reached the Tribunal, the Presiding Officer did not simply affirm that punishment. The Tribunal examined the nature of each proved charge and the overall conduct of the Petitioner. It noted that dismissal permanently disqualifies a person from service and therefore should follow only when the conduct makes continuation impossible in any form. On that assessment the Tribunal considered whether a lesser but still serious penalty would meet the ends of discipline.

65. The statute itself provides a range of punishments. They begin with minor penalties such as warning or censure and extend up to dismissal. Between these two lies termination. The Tribunal found that the Petitioner had committed acts affecting integrity of official records and had also misused the authority attached to the office of Principal. Such conduct affects confidence of the institution in its head and cannot be brushed aside by a minor punishment. At the same time the Tribunal took note that the misconduct, though serious, did not involve criminal conviction or physical harm to students. On that balancing exercise it replaced

dismissal with termination.

66. The reasoning behind this modification is clear. Altering service records to gain monetary advantage directly touches honesty. Combined with obstruction in administration and improper circulation of confidential communications, it shows conduct incompatible with a leadership role in an educational institution. A strict response therefore becomes necessary to maintain discipline and credibility. Yet the Tribunal stopped short of the maximum penalty. By choosing termination it removed the Petitioner from service but did not attach the lifelong stigma associated with dismissal.

67. Judicial review does not reassess punishment as if the Court were the disciplinary authority. Interference is justified only when the penalty shocks conscience or falls outside legal limits. Here the Tribunal carefully weighed the seriousness of misconduct and imposed a penalty recognised by the statute. The punishment is severe but it corresponds to the nature of proved acts. It cannot be described as arbitrary or disproportionate in the circumstances.

68. For foregoing discussion, I pass following order:

69. The writ petition stands dismissed.

70. The judgment and order dated 28 September 2006 passed by the College Tribunal in Appeal No. 9 of 2006 is upheld.

71. No order as to costs.

72. Rule stands discharged.

73. Pending interlocutory application(s), if any, stands disposed of.

(AMIT BORKAR, J.)