

CONTENTS
PART I
MISCONDUCT

<i>Sl No.</i>	<i>Synopsis</i>	<i>Page No.</i>
1.	Introduction	18
2.	What is misconduct ?	19
3.	Whether misconduct should be wilful ?	20
4.	General considerations to decide "Misconduct"	20
5.	Standing Orders defining misconduct are not exhaustive ?	21
6.	Whether the concept of misconduct is variable ?	22
7.	Whether the standing orders are binding ?	23
8.	Powers of employers under standing orders or service rules are not absolute	24
9.	Whether standing orders for transfer of workmen can be framed ?	24
10.	What are implied terms of contract of employer and employee relationship ?	25
11.	Broad enumeration of acts and omissions constituting misconduct ?	27
12.	Acts subversive of discipline	29
13.	Riotous and disorderly behaviour—if misconduct ?	31
14.	Wilful disobedience or default—meaning and scope of	32
15.	Wilful disobedience or insubordination	34
16.	Disobedience of Orders—when justified ?	36
17.	Acts of misconduct outside working hours	37
18.	When an offence involving moral turpitude amounts to misconduct ?	39
19.	Powers to transfer—when implied ?	40
20.	Transfer orders should be bona fide	42
21.	Disobedience of transfer order when misconduct ?	44
22.	Habitual late attendance—If misconduct ?	47
23.	Gross Misconduct	48
24.	"Misconduct" & "Accident"	48
25.	Unbecoming conduct—what is ?	48
26.	"Strike"—Meaning of :	48

(viii)		Page No.
Sl. No.	Synopsis	
27.	'Strike' if legitimate weapon for the workmen ?	49
28.	"Strike" when amounts to misconduct ?	57
29.	"Cessation of work"—when strike ?	58
30.	Mass Casual Leave—If strike ?	59
31.	"Sympathetic-strike"—Meaning and scope of	59
32.	Partial stoppage of work if strike ?	60
33.	"Picketing"—Meaning of :	61
34.	"Sit-down. strike" and "stay-in-strike"—meaning and scope of ?	62
35.	Strike for change in service conditions—if illegal ?	62
36.	"Tools-down strike"	62
37.	"Pen-down strike"	63
38.	"Token-strike"—Scope of :	63
39.	"Lightning-strike"	63
40.	"Threat of Strike"—if coercion ?	63
41.	Strike when justified ?	64
42.	What is go-slow ?	64
43.	"Go-Slow" is a serious misconduct ?	65
44.	Disciplinary action for misconduct after strike	66
45.	"Gherao"—What is ?	66
46.	"Objects of Gherao"	66

PART II
CHARGE SHEETS
(Service and Explanation)

1.	Introduction	68
2.	What is charge-sheet	68
3.	Form of charge-sheet	69
4.	Drafting of charge-sheet	72
5.	Who should frame the charge-sheet ?	73
6.	When a defect in charge-sheet vitiates the enquiry ?	77
7.	What is vague ?	77
8.	Requisites of a valid charge-sheet ?	77
Mode for Service of Charge-sheet		80
(a)	By Personal Service	80
(b)	Service of charge-sheet when there are standing orders or service rules	81
(c)	Service of charge-sheet through postal authorities	82

(ix)		
Sl. No.	Synopsis	Page No.
Explanation to Charge-sheet and its considerations by Competent Authority		
1.	Introduction	85
2.	Purpose of explanation	85
3.	Time to submit explanation to charge-sheet	86
4.	Explanation if necessary before an enquiry is conducted ?	87
5.	Consideration of explanation by punishing authority	87
	(a) Admission or confession of charge	88
	(b) When the charge is refuted	91
1.	Model Charge sheet for absence without permission	92
2.	Model Charge-sheet for overstaying of leave	92
3.	Model Charge-sheet for habitual late coming	93
4.	Model Charge-sheet for absence without sanction of leave	94
5.	Model Charge-sheet for loitering elsewhere	94
6.	Model Charge-sheet for assault or fighting/assaulting on the premises of the factory	95
7.	Model Charge-sheet for collecting subscriptions for the union	96
8.	Model Charge-sheet for disobedience of transfer order	97
9.	Model Charge-sheet for disorderly behaviour and instigation for striking work and gherao	97
10.	Model Charge-sheet for instigating workers to stop work and to demonstrate	98
11.	Model charge-sheet for defamation	99

PART III
DOMESTIC ENQUIRY

1.	Origin of Domestic Enquiry	102
2.	What is "Domestic Enquiry" ?	103
3.	Necessity of a "Domestic Enquiry"	103
4.	Difference between "Domestic Enquiry" and "Preliminary Enquiry"	104
5.	Requirement of holding a Domestic Enquiry	105
6.	Considerations for instituting a Domestic Enquiry	105
7.	Contingencies in which holding of a Domestic Enquiry can be dispensed with	107
Appointment of Enquiry Officer and Notice of Enquiry		
1.	Introduction	108
2.	Appointment of Enquiry Officer	108

(x)		Page No.
Sl. No.	Synopsis	
3.	Pre-requisites of a person to be Enquiry Officer	110
4.	Notice of Enquiry	112
5.	Mode of service of notice	113
6.	Period of notice for enquiry	113
7.	Language of notice for enquiry	114
Procedure to conduct Domestic Enquiry		
1.	Introduction	115
2.	Observance of rules in substance	116
3.	Objections by delinquent employee to enquiry proceedings	116
4.	Venue of holding enquiry	117
5.	Initiation of proceedings by enquiry officer	118
6.	Representation of parties before enquiry officer	118
7.	A workman has no right to be represented by an advocate	119
8.	When a workman can claim representation by an advocate	120
9.	When a workman can claim representation by a union leader or outsider ?	124
Consideration of documents and evidence by Enquiry Officer		
1.	Introduction	126
2.	Applicability of Evidence Act	126
3.	Production of documents	128
4.	Summoning of witnesses :	129
5.	Manner of recording evidence	131
6.	Standard of proof in departmental proceedings	133
7.	Hearing of arguments	134
Findings of the Enquiry Officer		
1.	Preparation of enquiry report	135
2.	Consideration of enquiry report by punishing authority	137
Principal Underlying Imposition of Punishment		
1.	The object or the ethics of punishment	140
2.	Consideration for determining the quantum of punishment	140
Jurisdiction of Industrial Tribunal or Labour Court to interfere with the order of Employer		
1.	Introduction	143
2.	Cases where proper enquiry had been held	143
3.	Cases where no enquiry or a defective enquiry had been held	144
4.	Power to interfere with the order of punishment	145

(xi)		Page No.
Sl. No.	Synopsis	
5.	Evidence on which power to interfere with the punishment can be exercised	145
6.	Principles for dealing with an application for permission or approval	146
PART IV		
RELIEF OF REINSTATEMENT OR GRANT OF COMPENSATION BY INDUSTRIAL ADJUDICATION		
1.	Introduction	148
2.	Principles governing the grant of reinstatement	148
3.	It is the duty of reinstated workmen to report for work and demand reinstatement	153
4.	Principles governing award of full back wages in case of wrongful dismissal	154
Mala Fides Victimization and Unfair Labour Practice		
1.	Introduction	157
2.	What is Mala fide ?	157
3.	What is Victimization ?	158
4.	Concept of "Victimization" is not limited to union activities only	160
5.	Unfair Labour Practice	163
6.	When and how a finding of mala fide, victimisation or unfair labour practice can be given ?	165
Principles of Natural Justice		
1.	Introduction	168
2.	Origin of the Principles of Natural Justice	169
3.	What is natural justice	169
PART V		
MODEL FORMS		
1.	Letter of appointment to enquiry officer	173
2.	Notice of enquiry	173
3.	Notice of enquiry when no explanation is submitted	174
4.	Request of workman for relieving his representative in the enquiry against him	175
5.	Notice for requisition of documents	175
6.	Record of enquiry proceedings	176
7.	Form of report of the enquiry officer	178

<i>Sl. No.</i>	<i>Synopsis</i>	<i>Page No.</i>
8.	Warning letter	179
9.	Show-cause notice	179
10.	Notice of dismissal	180

PART VI
STANDING ORDERS

1.	The Industrial Employment (Standing Order, 1946) (XX of 1946)	181
2.	Industrial Employment (Standing Orders) Central Rules, 1946	188