

## Defining the terms

### What is the issue?

There are some undefined provisions in Civil Services conduct rules which can be misused by the disciplinary authorities.

### What does the conduct rules mention?

- All India Services (AIS), State Service or Central Service officials are governed by Central and State Civil Services conduct rules.
- Similarly, the conduct of army officers and jawans are administered under the Army Act.
- AIS conduct rules require its members to maintain absolute integrity and devotion to duty and do nothing which is unbecoming of a member of the service.
- Army Act contains penal provisions for displaying unbecoming conduct or disgraceful conduct.
- But the terms unbecoming conduct or unbecoming of a member of service is not clearly defined.
- This leaves ample scope for the disciplinary authority to set parameters of misconduct according to him for his subordinates.
- Moreover there is long standing debate whether illicit relation (adultery) with another woman or man amounts to misconduct under service rules or not.

### What was the Supreme Court verdict regarding it?

- In **Joseph Shine vs Union of India case**, Supreme Court held that Section 497 of IPC (adultery) is arbitrary and should be decriminalised.
- But the centre approached the SC saying that its judgment in decriminalising adultery should not be applied to armed forces.
- The court observed that something which is not adultery will still be unbecoming conduct & army act is on different footing.
- This observation is in contrast to the judgments made by various High Courts in the past.

### What were the High Court verdicts regarding this?

- In **Rabindra Nath Ghosh case** (1985), Calcutta Court held that a head

constable who was living with another woman ignoring his married wife is not guilty of any misconduct.

- In **State of U.P. vs BN Singh** (1989), Allahabad Court ruled that to bring a case against government servant for his personal immorality on the habit of sex there should be valid reason.
- The reason must be that this habit should have reduced his utility as a public servant & damaged the government in public esteem.
- In **Pravina Solanki vs State of U.P.** (2001), court held that employees act in his/her private life cannot be regarded as misconduct.
- In **Mahesh Chand Sharma vs State of Rajasthan** (2019) case, court held that employer should not do moral policing on its employees that go beyond the domain of his public life.

### **What can we infer from this?**

- Various High Courts held that the act of adultery is not a sufficient ground to initiate departmental proceeding unless it interferes with an employee's official functions.
- But the Supreme Court's observation that Army Act is on a different footing raises contention between misconduct and immoral act.
- It is generally understood that misconduct is unlawful behaviour, which involves moral turpitude, improper or wrong behaviour and should be wilful in character.
- Government want its employees to maintain integrity both in public and private domain.
- Hence, SC should state whether adulterous conduct is sufficient to initiate departmental action.
- It must also define expressions such as unbecoming of a civil servant or unbecoming or disgraceful conduct.

**Source: The Hindu**



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