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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