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268. Is dismissing an employee appropriate when theft is proven, considering loss of employer trust and workplace integrity?

The foundation of any employer-employee relationship is built on trust, honesty, and workplace integrity. When an employee engages in theft, they violate these fundamental principles, justifying strict disciplinary action, including dismissal. The Industrial Employment (Standing Orders) Act, 1946, and judicial precedents reinforce that misconduct such as theft warrants termination when proven through a fair and transparent process.

The Industrial Employment (Standing Orders) Act, 1946

- Section 2(g) defines "standing orders" as rules relating to workplace discipline, including suspension and dismissal for misconduct.
- Section 3(2) mandates that standing orders must conform to the Model Standing Orders and provide for dismissal of employees in cases of misconduct.
- Point number 9 of Schedule explicitly includes "suspension or dismissal for misconduct" and requires employers to frame rules accordingly.

Thus, theft, being an act of misconduct, falls within the ambit of standing orders, allowing employers to take disciplinary action, including termination.

The Industrial Disputes Act, 1947

- Act provides provisions to a worker to challenge dismissal before a Labour Court.
- Act empowers Labour Courts to assess whether the punishment is disproportionate to the misconduct.

The Standard Procedure for Dismissal in Cases of Misconduct

As per established employment law principles, an employer must follow these steps for dismissal to be legally valid:

1. **Issue a Show-Cause cum Charge Sheet** – The employer must notify the employee of the alleged theft and provide an opportunity to respond.
2. **Examine the Employee's Response** – If unsatisfactory, the employer initiates a formal domestic inquiry.
3. **Conduct a Domestic Inquiry** –
 - An Inquiry Officer is appointed.
 - Both employer and employee present their arguments.
 - The inquiry follows principles of natural justice.

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4. **Review the Inquiry Report** – If the charges are proven, a second show-cause notice is issued before final dismissal.
5. **Final Decision and Dismissal Order** – If the employee's response is unsatisfactory, dismissal is executed.

Judicial Precedents Supporting Dismissal for Theft | Karnataka High Court: The Taj West End Hotel v. K. Venkatesh (2024)

Facts of the Case

- An employee was caught stealing a 1-litre oil sachet from the workplace.
- Security personnel witnessed the act, and the incident was recorded on CCTV.
- A domestic inquiry was conducted, and the employee was found guilty of theft.
- The Labour Court initially ruled in favour of the employee, ordering reinstatement.
- The employer challenged the order in the Karnataka High Court.

Key Judgment Findings

- Theft, regardless of scale, leads to a loss of employer trust.
- A police complaint is not required to prove misconduct in an internal disciplinary inquiry.
- The Labour Court wrongfully interfered by ordering reinstatement out of sympathy.
- Dismissal was upheld as legally justified.

Supreme Court Precedents on Employee Theft

Several Supreme Court judgments emphasize that theft is a serious misconduct that justifies dismissal:

- **Hind Construction & Engineering Co. Ltd. v. Their Workmen (1965)** – Theft is an act of gross misconduct, justifying strict disciplinary action.
- **Janatha Bazar v. Secretary, Sahakari Noukarara Sangha (2000)** – Dismissal for theft was upheld, as trust in an employee is non-negotiable.
- **Mahindra & Mahindra Ltd. v. N.B. Narawade (2005)** – Theft leads to irreparable trust deficit, making continued employment untenable.

Justification for Dismissal in Cases of Proven Theft

1. Loss of Employer Trust

- Trust is essential in employment. Even minor theft undermines confidence in the employee's integrity.
- The Karnataka High Court ruled that once trust is lost, reinstatement is impractical.

2. Workplace Discipline and Integrity

- Allowing a proven thief to remain employed sets a dangerous precedent.
- Other employees may lose faith in the company's disciplinary standards.

3. Legal Compliance and Due Process

- As long as the employer follows due process, dismissal is legally sound.
- Courts cannot interfere unless punishment is shockingly disproportionate.

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Counterarguments and Rebuttal

1. “Theft was Minor, Dismissal is Harsh”

Rebuttal:

- The scale of theft is irrelevant – any act of dishonesty breaches trust.
- Courts have consistently upheld dismissals for even small thefts.

2. “The Labour Court Has the Power to Reinstate”

Rebuttal:

- Section 11A of the ID Act allows interference only if punishment is excessive.
- In cases of theft, courts have ruled that dismissal is proportionate.

3. “No Police Complaint Was Filed”

Rebuttal:

- Filing a police complaint is not a legal requirement for proving theft in a domestic inquiry.
- Internal disciplinary procedures are sufficient grounds for dismissal.

Conclusion

In light of legal statutes, judicial precedents, and workplace ethics, dismissing an employee for proven theft is appropriate and legally justified. The following key points support this conclusion:

- **Theft is recognized as “misconduct” under labour laws, justifying dismissal.**
- **The employer-employee relationship is based on trust; theft destroys this foundation.**
- **Supreme Court and High Court rulings uphold dismissals in cases of proven theft.**
- **Due process must be followed, but once proven, courts cannot interfere on sympathetic grounds.**

Employers must ensure that all disciplinary actions follow due legal procedures, but once theft is proven, dismissal remains the most appropriate course of action to maintain workplace integrity and uphold ethical standards.

Shekhar Ganagaluru is a distinguished expert in Human Resources, Industrial Relations, Compliance, Legal, and Safety, with over two decades of experience shaping industry best practices. Currently serving as Director of HR, Safety & General Affairs at Blesse India Private Ltd., Shekhar has been instrumental in industrial relations, successfully leading trade union negotiations and securing long-term settlements that ensure business sustainability while safeguarding workers' interests. His expertise spans HR, compliance, labour laws, safety, and leadership development, establishing him as a transformative leader and trusted mentor.

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