



DOMESTIC ENQUIRY (5th ed. 1996). By Markanday Katju. N.M. Tripathi Pvt. Ltd., Bombay. Pp. xxviii + 224. Price Rs. 180.

THE LAW of termination is probably the most important part of the law of industrial relations. And, domestic enquiry is the nucleus on which termination decisions are mostly based. Industrial jurisprudence envisages a kind of job security to industrial proletariat through provision of fair hearing in cases of allegations of misconduct. Tribunals and labour courts in India have frequently decreed reinstatements with back wages of wrongfully terminated workers. Therefore, it is absolutely necessary for both employers and workers to master the voluminous and complex law of termination, including rules related to holding of domestic enquiry.

This branch of law will assume a still greater importance in the globalisation era in which unions and employee collectives are becoming weaker. Freedom of contract and the policy of hire and fire are reviving in the emerging era.<sup>1</sup> This might result in further increase in the number of terminations, eventually leading to increase in workers' grievances. It is estimated that presently a whopping six *lakh* industrial disputes are pending before various tribunals and labour courts in the country.<sup>2</sup> This scenario is neither in consonance with the constitutional goal of providing social justice nor is it likely to facilitate the goals of Human Resource Development (HRD) which is a new catchword in personnel management literature. HRD seeks to develop competence and potential of individual employees and looks at unions as institutions indulging in unjustified challenge to managerial prerogatives. In any case, therefore, there is a need to effectively deal with the questions related to discipline, misconduct and disciplinary action. A *sine qua non* of this is an articulate understanding of the law of domestic enquiry and termination which presently is in quite a complex state. Also, there is a dearth of good texts that state this law in a lucid and clear manner.

The book<sup>3</sup> under review has filled this gap to a great extent, and is one of the most respected texts on the subject. It is now in its fifth revised edition which has updated the case law upto the year 1995. Since a voluminous number of judgments have been delivered by the higher judiciary in this area of labour law often the law is found unclear. However, this book has helped in good measure to knit these cases in a coherent set of legal propositions. The book is divided into nine parts. Part I which is introductory explains the concept of domestic enquiry and its emergence. Part II is titled procedure of conducting a domestic enquiry and deals with issues related to, (i) preliminary enquiry; (ii) charge sheet; (iii) procedure in a domestic enquiry; (iv) findings of the enquiry officer; and (v) letter of punishment. The three rules of natural justice have been discussed in part III, *i.e.*, rule against bias.

---

1. Deb: S. Saini, "Globalization Syndrome. Human Resource Management and Trade Unions", 1 (2), *Management and Change* 101 (1997).

2. Figure revealed by L.D. Mishra, Secretary—Labour, Government of India, at a recent seminar in New Delhi.

3. Markanday Katju, *Domestic Enquiry* (5th ed. 1996).



of misconduct, examples of misconduct, and defence to charges of misconduct. Various types of punishments have been discussed in part V. Part VI deals with issues related to tribunal's jurisdiction to interfere. These are, (i) reference; (ii) general principles; (iii) victimisation; (iv) unfair labour practices and perversity; (v) procedure before the tribunal; (vi) tribunal's power to give relief in case of wrongful termination of service; and (vii) section 11-A of the Industrial Disputes Act (IDA). Part VII deals with proceedings under section 33 of the IDA. Part VIII which deals with interference by the High Court is extremely brief. The last part contains model documents like model charge sheet, model enquiry proceedings, etc.

The greatest strength of this book is its precision, coherence, comprehensive treatment, and simplicity of language. The main purpose of domestic enquiry is to give a "reasonable opportunity" to the worker concerned to defend himself against the charge of misconduct. The scheme of the book in articulating such opportunity is visible on each page of the book.

An added strength of the book is the presence in it of only the least amount of technical complexity which will help trade union leaders to understand this, probably the most difficult, part of labour law. The coherence between sentences is remarkable, apart from their technical accuracy, which makes it a very interesting reading. However, the reviewer is of the view that the chapter on misconduct should have been written more imaginatively. It is titled "Examples of Misconduct", giving an impression of lackadaisical treatment. It should have been titled, 'Types of Misconduct'. Various types of misconduct should have been classified into three or four broad classifications, e.g., (i) misconduct relating to duty; (ii) misconduct relating to discipline or orderly conduct; (iii) misconduct relating to morality, etc. The examples given by the author in this chapter are not complete and many more should have been added. A fastidious reader will have to search alternative references on this topic.

All in all, however, the book is a welcome addition and will help all concerned a great deal in grasping the difficult subject of domestic enquiry and disciplinary action.

*Debi S. Saini\**

---

\* M. Com., LL.M., Ph.D. (Delhi). Professor, Human Resource Management Area, Institute for Integrated Learning in Management, New Delhi.