



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 9259 OF 2023

Dr. S.D. Nikam
Associate Professor/Accountancy
R.N.C. Arts, J.D.B. Commerce and
N.S.C. Science College Road, Nashik Road. ... Petitioner

Versus

1. Gokhale Education Society Educational Trust,
through its Secretary and Director General.
2. University of Pune (Now named as Savitribai
Phule, Pune University), through its Educational
Department, Ganesh Khind, Pune.
3. The Principal, R.N.C. Arts, J.N.B. Commerce and
N.S.C. Science College Road, Nashik Road.
4. The State of Maharashtra, through Department of ... Respondents
Education .

Mr. Pramod N. Joshi a/w. Ms. Rukmini Khairnar for the petitioner.
Ms. Shruti D. Vyas, Addl. G.P. a/w. Mr. S.B. Kalel, AGP for respondent
no. 4.
Mr. Vishwanath Talkute for respondent nos. 1 to 3.

CORAM: G. S. KULKARNI &
JITENDRA JAIN, JJ.
DATED: 03 November, 2023

ORAL JUDGMENT (Per G.S. Kulkarni, J.)

1. Rule, made returnable forthwith. Respondents waive service. By
consent of the parties, heard finally.

2. This petition under Article 226 of the Constitution of India depicts an unfortunate case wherein the petitioner, who was working on the post of Associate Professor with respondent no. 1-Institution, has suffered suspension from service, at the hands of respondent no. 1, by a suspension order dated 28 November, 2022. The suspension is on the ground that the petitioner was in judicial custody on a criminal charge, for a period exceeding 48 hours. The suspension order reads thus:

“SUSPENSION ORDER

Dr. S.D. Nikam, Associate Professor of Accountancy, RNC Arts, JDB Commerce & NSC Science College, Nasik Road is hereby intimated that he shall be deemed to have been placed under suspension w.e.f. 29th November, 2022 due to Judicial Custody on a Criminal Charge for a period exceeding 48 hours. Since he is under suspension, no leave can be granted by the College or the Society.”

3. The suspension order is stated to be issued under the provisions of the “Statutes” of the University of Pune, which govern the terms and conditions of service of the teachers appointed in the University/Colleges and Institutions conducted by the University/Affiliated Colleges/Constituent Colleges/Recognized Institutions of the University of Poona, as framed under section 42 and/or 73 of the Poona University Act, 1974, in vogue at the relevant time. Such ‘Statutes’ of the University continue to operate under the Maharashtra Public Universities Act, 2016, which presently govern the non-agricultural universities and the institutions affiliated to the universities.

4. Statute 433-A(3) provides for “Procedure for infliction of major penalties, under which Clause (3)(A)(i) provides for ‘suspension’. It would be necessary to note the said provision, which reads thus:

“Statute 433-A

(1)

(2)

(3) **Procedure for infliction of major penalties:**

(A) **Suspension:**

(i) If the teacher is alleged to be guilty of an offence of a criminal nature involving moral turpitude and if there are reasons to believe that in the event of the offence being proved against him he would deserve to be removed or dismissed from service, the Competent Authority as specified in S. 433 shall first decide whether the person concerned should be placed under suspension.

(ii) The Competent Authority shall issue order of suspension of the teacher, the order of appointment of the Inquiry Officer/Committee, charge-sheet (including statement of allegations) and list of evidence, simultaneously.

(iii) The Inquiry Authority shall commence inquiry and complete the same expeditiously.

Statute 433 and 433-A came into force w.e.f. 09.10.1981.

(iv) The teacher under suspension shall be paid the salary at half the pay and allowances admissible thereon for period of first three months of suspension, at the rate of 75 % of the pay and allowances admissible thereon for the period of next three months, and at the rate of full pay and allowances admissible thereon, thereof.”

(emphasis supplied)

5. Thus the said statute of the University under the heading “**Suspension**” *inter alia* provides that if the teacher is alleged to be guilty of an offence of a

criminal nature involving “moral turpitude” and if there are reasons to believe that in the event of the offence being proved against him, he would deserve to be removed or dismissed from service, the Competent Authority as specified in Statute 433, shall first decide whether the person concerned should be placed under suspension. The grievance of the petitioner is that the suspension order is per se illegal, being contrary to the provisions of Statute 433-A(3)(A)(i) of the Statute of University of Pune, inasmuch as, the petitioner could have been suspended only in the event of the petitioner being involved in the commission of an offence involving moral turpitude, with the likelihood that such offence being proved against him, he would deserve to be removed or dismissed from service.

6. In supporting such contentions of the petitioner, Mr. Joshi, learned counsel for the petitioner would submit that the petitioner had suffered judicial custody on account of an unfortunate incident of a motor vehicle accident. It is contended that the person who was injured in such accident had lodged a First Information Report (FIR) against the petitioner. The accident took place on 17 November, 2022, involving a collusion of the petitioner’s vehicle with the complainant’s vehicle. It is in connection with such road accident, an FIR dated 18 November, 2022 was registered by the complainant against the petitioner under sections 279, 308, 337, 338 of the Indian Penal

Code and under sections 132, 179, 134(A), 134(B), 187, 184 and 185 of the Motor Vehicles Act, 1988, with the Mumbai Naka Police Station, Nashik City.

7. Mr. Joshi would submit that certainly the incident, namely, the accident in question, and the offences alleged to have been committed by the petitioner are in relation to and/or arising under the accident, subject matter of the FIR are not offences involving moral turpitude, so as to attract the provisions of Statute 433-A(3)(A)(i) to suspend the petitioner from services. In support of such submission, Mr. Joshi has referred to the decision of Punjab and Haryana High Court in *Darshan Singh vs. State of Punjab & Ors.*¹.

8. The next grievance of the petitioner as submitted by Mr. Joshi is that the petitioner has neither been paid subsistence allowance nor any other amounts during the period of suspension. He submits that such amounts are required to be released, as it is a question of the very livelihood/survival of the petitioner.

9. Mr. Talkute, learned counsel for respondent nos. 1 to 3, responding to such contentions of Mr. Joshi, would not dispute that the custody which was suffered by the petitioner was on account of the petitioner being involved in a motor vehicle accident as noted above. On the petitioner's case in regard to non-payment of the subsistence allowance, Mr. Talkute has fairly pointed out

1 CWP-627 of 2017 (O & M) dated 14.03.2023

that a proposal was made to the Deputy Director of Education dated 1 December, 2022 and thereafter on 13 April, 2023 and 23 June, 2023 requesting for release of the grant-in-aid in regard to the subsistence allowance payable to the petitioner, as respondent no. 1 is a fully aided institution. It is his submission that such proposal is still pending with the Joint Director, Higher Education, Pune Division.

10. Having heard learned counsel for the parties, the questions which would arise for consideration is whether respondent nos. 1 and 3 were justified in issuing the impugned suspension order merely on the premise that the petitioner had suffered custody in relation to an FIR as lodged by the complainant on the happening of the motor vehicle accident; and whether the offences in question would at all involve moral turpitude so as to attract the provisions of statute 433-A(3)(A)(i), would be required to be examined.

11. In such context, at the outset it would be necessary to appreciate as to what would be contours and the meaning of the phrase 'moral turpitude' as understood under the provisions of statute in question. The phrase "Moral turpitude" combines two words "Moral" and "Turpitude". The plain meaning of these two words can be noted.

12. The dictionary meaning of '**moral**' is as follows:

The **Oxford English Dictionary**

“**Moral** - ... 1. Of or pertaining to character or disposition, considered as good or bad, virtuous or vicious; of or pertaining to the distinction between right and wrong, or good and evil, in relation to the actions, volitions, or character of responsible beings; ethical.”

The **Webster’s Third New International Dictionary**

“**Moral** - 1 a. Of or relating to principles or considerations of right and wrong action or good and bad character; b. Of or relating to the study of such principles or considerations; 2. expressing or teaching a conception or right behaviour; 3 a. capable of being judged as good or evil or in terms of principles of right and wrong action : resulting from or belonging to human character, conduct or intentions; b. capable of right and wrong action or of being governed by a sense of right; 4. Of, relating to, or acting upon the mind, character or will.”

The **Black’s Law Dictionary**

“**Moral** - Pertains to character, conduct, intention, social relations etc.

1. Pertaining or relating to the conscience or moral sense or to the general principles of right conduct.
2. Cognizable or enforceable only by the conscience or by the principles of right conduct, as distinguished from positive law.
3. Depending upon or resulting from probability; raising a belief or conviction in the mind independent of strict or logical proof.
4. Involving or affecting the moral sense; as in the phrase “moral insanity”.

Corpus Juris Secundum (Volume LVIII)

“**Moral** - Manner, custom, habit, way of life, conduct pertaining to character, conduct, intentions, social relations, etc. Conduct is regarded as moral that conforms to the generally accepted rules which society recognizes should govern everyone in his social and commercial relations with others, regardless of whether those rules are enforceable as legal obligations. What is moral is the antithesis of that which involves turpitude.”

P. Ramanatha Aiyar’s Advanced Law Lexicon 3rd Edition

“**Moral** - Of or pertaining to the rules of right conduct; concerning the distinction of right from wrong.(Cent. Dict.)

Of or relating to principles or consideration of right and wrong action or good or bad character.”

13. The dictionary meaning of the word ‘turpitude’ is as follows:

The **Oxford English Dictionary**

“**Turpitude** - Base or shameful character; baseness, vileness; depravity, wickedness.”

The **Webster’s Third New International Dictionary**

“**Turpitude** : inherent baseness or vileness of principle, words or actions.”

The **Black’s Law Dictionary**

“**Turpitude** - In its ordinary sense, inherent baseness or vileness or principle or action; shameful wickedness’ depravity. In its legal sense, everything done contrary to justice, honesty, modesty or good morals. An action showing gross depravity.”

P. Ramanatha Aiyar’s Advanced Law Lexicon 3rd Edition

“**Turpitude**” is a word of high emotional significance, suggesting conduct of such depravity as to excite feelings of disgust and contempt. The crime of simple hurt does not normally provoke any such reaction and consequently cannot be classed as an offence involving moral turpitude and it seems to me that there is no logical reason why the offence of murder, which in essence is only an aggravated form of hurt, should be held necessarily to involve moral turpitude. I am willing to concede that murders which are premeditated and planned in cold blood, those which the perpetrated for some base motive and those which are carried out with extreme ferocity and cruelty do involve moral turpitude, as they naturally evoke a spontaneous feeling of repulsion and condemnation in the mind. But a murder committed in the heat of a fight or in response to serious provocation could hardly be placed in the same category. (Harsukh Lal vs. Sarnam Singh, 1964 All LJ 1118; Mahak Singh vs. State of U.P., AIR 1999 All 274, 281)

14. Having noted the plain meaning of the words “moral” and “turpitude”, the meaning of the phrase “moral turpitude” in the legal parlance is also required to be seen.

The **Webster’s Third New International Dictionary**

“Moral turpitude - ... 1. an act or behaviour that gravely violates the moral sentiment or accepted moral standards of the community; 2. the morally culpable quality held to be present in some criminal offences as distinguished from others (permits may be denied for bad moral character.. or conviction for an offence involving moral turpitude.”

The **Black’s Law Dictionary**

“Moral turpitude - ... 1. Conduct that is contrary to justice, honesty, or morality. In the area of legal ethics, offenses involving moral turpitude – such as fraud or breach of trust – traditionally make a person unfit to practice law. - Also termed moral depravity.”

Corpus Juris Secundum (Volume LVIII)

“Moral Turpitude” has been defined as meaning an act of baseness, vileness, vileness, or depravity in the private and social duties which a man owes to his fellow man or to society in general, contrary to the accepted and customary rule of right and duty between man and man and this definition has been given by a great many authorities and approved by all that have considered the question. The term has also been defined as meaning anything done contrary to justice, honesty, principle or good morals, everything done contrary to justice, honesty, modesty, or good morals, anything done knowingly contrary to justice, honesty, or good morals. “Moral turpitude” has also been defined to mean baseness, depravity, or wickedness, base or shameful character, a base or shameful act.

As a legal term, “moral turpitude” is defined as the quality of a crime involving grave infringement of the moral sentiment of the community as distinguished from statutory mala prohibita.

“Moral” in combination with “turpitude” us a tautological expression, and it has been said that the word “moral” does not seem to add anything to the meaning of the term, other than that emphasis which often results from tautological expression, and serves only to emphasize the nature of the wrong committed.

Moral turpitude often involves the question of intent, and as a general rule unintentional wrong, or an improper act done without unlawful or improper intent, does not carry with it the germ of moral turpitude. Thus an act committed because of ignorance does not constitute moral turpitude. It is not necessary to prove a bad motive on the part of one in order to have it said that he is guilty of moral turpitude.”

P. Ramanatha Aiyar’s Advanced Law Lexicon 3rd Edition

“Moral turpitude : Anything done contrary to justice, honesty, principle, or good morals; an act of baseness, vileness, or depravity in the private and social duties which a man owes to his fellow man or to society in general, contrary to the accepted and customary rule of right and duty between man and man.

1. Conduct that is contrary to justice, honesty or morality. In the area of legal ethics, offenses involving moral turpitude such as fraud or breach of trust traditionally make a person unfit to practice law. Also termed moral depravity. 2. Military law. Any conduct for which the applicable punishment is a dishonorable discharge or confinement not less than one year. (Black, 7th Edn. 1999)

“Moral turpitude means, in general, shameful wickedness – so extreme a departure from ordinary standards of honest, good morals, justice, or ethics as to be shocking to the moral sense of the community. It has also been defined as an act of baseness, vileness, or depravity in the private and social duties which one person owes to another, or to society in general, contrary to the accepted and customary rule of right and duty between people.” 50 Am. Jur. 2D Libel and Slander, S. 165, at 454(1995).

15. A cumulative reading of the definition of the words “moral” and “turpitude” and the phrase “moral turpitude”, in the context of an offence involving moral turpitude would indicate, that such would be an offence which would attract the principles or considerations of right and wrong action or good and bad character which are capable of being judged as good or evil, or relating to or acting upon the mind, character or will; or pertains to character, conduct, intention involving general principles of right conduct; having relation to what the Society recognizes should govern everyone, in the social and commercial relations. What is moral is the antithesis of that which involves turpitude. It would also mean a base or shameful character; baseness, vileness; depravity, wickedness of actions and in the legal sense, everything done contrary to justice, honesty, modesty or good morals or an action

showing gross depravity. This would thus exclude certain category of offences which do not involve and attract morality, baseness, vileness or depravity in the private and social duties or offence which do not involve the question of intent or an unintentional wrong having been committed or an improper act done without unlawful or improper intent or an act committed of ignorance of such principles.

16. Having considered the meaning of the phrase “moral turpitude”, we may also examine the legal position, which can be culled out from the decisions of the Courts in regard to the offences involving moral turpitude.

17. In **Pawan Kumar vs. State of Haryana & Anr.**², the Supreme Court had an occasion to consider the expression “moral turpitude” as used in the legal as also societal parlance. The case before the Supreme Court was of a termination suffered by the appellant on the ground of conviction for an offence under section 294 of the Indian Penal Code. It is in such context, the Supreme Court considering the list prepared by the respondent-State, of offences involving moral turpitude, set aside the decision of the High Court and allowing the appellant’s case. The Supreme Court observed that the conviction of the appellant under Section 294 of the IPC would not involve

2 AIR 1996 SC 3300

moral turpitude. The Supreme Court examining the concept of moral turpitude held thus:

"12. "Moral turpitude" is an expression which is used in legal as also societal parlance to describe conduct which is inherently base, vile, depraved or having any connection showing depravity. The Government of Haryana while considering the question of rehabilitation of ex-convicts took a policy decision on February 2, 1973 (Annexure E in the Paper Book), accepting the recommendations of the Government of India, that ex-convicts who were convicted for offences involving moral turpitude should not, however, be taken in Government service. A list of offences which were considered involving moral turpitude was prepared for information and guidance in that connection. Significantly Section 294, IPC is not found enlisted in the list of offences constituting moral turpitude. Later, on further consideration, the Government of Haryana on 17/26th March, 1975 explained the policy decision of February 2, 1973 and decided to modify the earlier decision by streamlining determination of moral turpitude as follows:

".. ... The following terms should ordinarily be applied in judging whether a certain offence involves moral turpitude or not:

- (1) whether the act leading to a conviction was such as could shock the moral conscience of society in general.
- (2) whether the motive which led to the act was a base one.
- (3) whether on account of the act having been committed the perpetrator could be considered to be of a depraved character or a person who was to be looked down upon by the society.

Decision in each case will, however, depend on the circumstances of the case and the competent authority has to exercise its discretion while taking a decision in accordance with the above mentioned principles. A list of offences which involve moral turpitude is enclosed for your information and guidance. This list, however, cannot be said to be exhaustive and there might be offences which are not included in it but which in certain situations and circumstances may involve moral turpitude."

Section 294 IPC still remains out of the list. Thus the conviction of the appellant under Section 294, I.P.C. on its own would not involve moral turpitude depriving him the opportunity to serve the State unless the facts and circumstances, which led to the conviction, met the requirement of the policy decision above-quoted.

14. Before concluding this judgment we hereby draw attention of the Parliament to step in and perceive the large many cases which per law and public policy are tried summarily, involving thousands and thousands of people throughout the country appearing before summary courts and paying small amounts of fine, more often than not, as a measure of plea-bargaining. Foremost among them being traffic, municipal and other petty offences under the Indian Penal Code, mostly committed by the young and/or the inexperienced. The cruel result of a conviction of that kind and a fine of payment of a paltry sum on plea-bargaining is the end of the career, future or present, as the case may be, of that young and/or inexperienced person, putting a blast to his life and his dreams. Life is too precious to be staked over a petty incident like this. Immediate remedial measures are, therefore, necessary in raising the toleration limits with regard to petty offences especially when tried summarily. Provision need be made that punishment of fine upto a certain limit, say upto Rs.2000/- or so, on a summary/ordinary conviction shall not be treated as conviction at all for any purpose and all the more for entry into and retention in government service. This can brook no delay, whatsoever.”

(emphasis supplied)

18. The decision of the Supreme Court in **Pawan Kumar** (*supra*) is referred with approval in the subsequent decisions of the Supreme Court in the case of **Mohammed Imran vs. State of Maharashtra & Ors.**³ and in the case of **State of Madhya Pradesh & Ors. vs. Bhupendra Yadav**⁴.

19. In **State Bank of India & Ors. vs. P. Soupramaniane**⁵, the respondent before the Supreme Court was working as a messenger in State Bank of India at Puducherry, who came to be discharged from service, on being convicted of an offence, alleged to be involving moral turpitude. He was charged under sections 307 and 324 of Indian Penal Code. In the criminal proceedings, the

3 (2019) 17 SCC 696

4 2023 SCC OnLine SC 1181

5 (2019) 18 SCC 135

trial Court held that there was no material to convict the respondent under section 307 of Indian Penal Code. However, the trial Court convicted the respondent under Section 324 of IPC and sentenced him to undergo imprisonment for three months. The motive for the crime was stated to be an earlier dispute between two groups belonging to different political parties. The conviction was affirmed by the appellate court. The appellate court, however, released the respondent on probation as it was of the opinion that the respondent was a fit person to be dealt with under Section 360 of Cr.P.C. One of the reasons given by the appellate court to release the respondent on probation, was that the respondent was employed as a messenger in a bank and any sentence of imprisonment would affect his career. Despite this, the respondent was discharged from service on the ground of his conviction by a criminal court for an offence involving moral turpitude. The petitioner approached the High Court against his discharge. The learned Single Judge of the High Court dismissed the respondent's writ petition. A writ appeal was filed by the respondent, in which the Division Bench of the High Court set aside the order passed by the learned Single Judge on the ground that the purpose of the order of the criminal court, would stand defeated if the respondent is discharged from service. The Supreme Court affirmed the judgment of the appeal court granting reinstatement of service to the respondent. It is in such context, the Supreme Court examined the concept of

moral turpitude. The relevant observations of the Supreme Court are required to be noted, which reads thus:

“13. Ordinarily, the tests that can be applied for judging an offence involving moral turpitude are:

- a) Whether the act leading to a conviction was such as could shock the moral conscience or society in general;
- b) Whether the motive which led to the act was a base one, and
- (c) Whether on account of the act having been committed the perpetrators could be considered to be of a depraved character or a person who was to be looked down upon by the society.

14. The other important factors that are to be kept in mind to conclude that an offence involves moral turpitude are : the person who commits the offence; the person against whom it is committed; the manner and circumstances in which it is alleged to have been committed; and the values of the society.

15. According to the National Incident–Based Reporting System (NIBRS), a crime data collection system used in the United States of America, each offence belongs to one of the three categories which are: crimes against persons, crimes against property, and crimes against society. Crimes against persons include murder, rape, and assault where the victims are always individuals. The object of crimes against property, for example, robbery and burglary is to obtain money, property, or some other benefits. Crimes against society, for example, gambling, prostitution, and drug violations, represent society’s prohibition against engaging in certain types of activities. Conviction of any alien of a crime involving moral turpitude is a ground for deportation under the Immigration Law in the United States of America. To qualify as a crime involving moral turpitude for such purpose, it requires both reprehensible conduct and scienter, whether with specific intent, deliberateness, willfulness or recklessness.

16. There can be no manner of doubt about certain offences which can straightaway be termed as involving moral turpitude e.g. offences under the Prevention of Corruption of Act, the NDPS Act, etc. The question that arises for our consideration in this case is whether an offence involving bodily injury can be categorised as a crime involving moral turpitude. In this case, we are concerned with an assault. It is very difficult to state that every assault is not an offence involving moral turpitude. A simple assault is different from an aggravated assault. All cases of assault or simple hurt cannot be categorised as crimes involving moral turpitude. On the other hand, the use of a dangerous weapon which can cause the death of the victim

may result in an offence involving moral turpitude. In the instant case, there was no motive for the respondent to cause the death of the victims. The criminal courts below found that the injuries caused to the victims were simple in nature. On an overall consideration of the facts of this case, we are of the opinion that the crime committed by the respondent does not involve moral turpitude. As the respondent is not guilty of an offence involving moral turpitude, he is not liable to be discharged from service."

(emphasis supplied)

20. In **Anand John vs. Zonal Manager, Bank of India, Cochin**⁶, the appellant therein was charged with an offence punishable under section 118(e) of the Kerala Police Act, 2011 and Section 185 of the Motor Vehicles Act, 1988, being crimes registered against him at the concerned police station. In the said proceedings, the appellant pleaded guilty and was convicted and sentenced to undergo imprisonment till the rising of the Court and to pay a fine of Rs.2,000/- for the offence under Section 118(e) of the Kerala Police Act and Rs.1,000/- for the offence under section 185 of the Motor Vehicles Act. The appellant was selected to the post of Sub Staff (Sepoy) subject to submission of satisfactory proof of eligibility *inter alia* of all documents which were subject to receipt of satisfactory police verification of his character and antecedents. However, on the premise of such criminal proceedings as initiated against the appellant, the respondent-bank issued a letter to the appellant informing him that as per the police verification report received by it, the appellant was not suitable for the post and hence the offer of appointment issued to him stands revoked. This was questioned by the appellant before the Kerala High Court.

6 2016 SCC OnLine Ker 38072

The learned Single Judge of the High Court dismissed the Writ Petition filed by the appellant. However, the Division Bench in the proceedings of a writ appeal examined the question, as to whether the appellant could be said to be guilty of an offence involving moral turpitude. The Division Bench also referring to the decision of the Delhi High Court in the case of **Bank of Maharashtra vs. Om Prakash Malvaliya**⁷, made the following observations:

“8. Learned counsel further relied upon the judgment of the Delhi High Court in *Bank of Maharashtra v. Om Prakash Malvaliya* [ILR (1997) II Delhi p.135] in support of his case to contend that the offences committed by the appellant squarely falls within the meaning of offence involving ‘moral turpitude’.

9. In *Bank of Maharashtra’s* case (cited supra), the learned Single Judge of Delhi High Court while considering the question as to whether the offence does or does not involve ‘moral turpitude’, has summarised as under:-

“11. The test which can be applied for judging whether an offence does or does not involve “moral turpitude” can be summarised as follows:

- (1) Whether the act leading to a conviction was such as could shock the moral conscience of society in general;
- (2) whether the motive which led to the act was a base one; and
- (3) whether on account of the act having been committed the perpetrator could be considered to be of a depraved character or a person who was to be looked down upon by the society.

12. It is not possible to lay down any abstract standard which constitutes moral turpitude. There are certain criminal offences like theft, robbery, criminal breach of trust, misappropriation of property, which directly involve moral turpitude. In such cases, no elaborate investigation is required to find out the depraved conduct of the delinquent employee. If the offence does not show any element of vileness, depravity and weakness of

7 ILR (1997) II Delhi p.135

character of the offender the disciplinary authority is required to consider the facts and circumstances of the case to find out whether the motive which led to the conviction was deprave. It is a settled law that “moral turpitude” cannot be applied in its widest term. However, the ratio decidendi of the various cases indicate that the question whether a certain offence involves “moral turpitude” or not will necessarily depend on the circumstances in which the offence is committed. It is not in every punishable act that can be considered to be an offence involving moral turpitude. Any criminal conviction per se does not amount to “moral turpitude”. So it follows that when an employee is convicted on criminal charge his dismissal cannot be automatic, unless, there is a specific rule in that regard.”

10. We agree with the observations made by the Delhi High Court that if the act leading to a conviction was such as would shock the moral conscience of society in general, if the motive which led to the criminal act was a base one and if on account of the act having been committed the perpetrator could be considered to be of a depraved character or a person who was to be looked down upon by the society may fall under the definition of ‘offence involving moral turpitude’. However, we hasten to add that it is not possible to lay down any abstract standard, which constitutes ‘moral turpitude’. Each case has to be dealt with based on the facts and circumstances of that case. Every criminal conviction per se does not amount to ‘moral turpitude’.

12. Section 185 of the Motor Vehicles Act reads thus:-

“185. Driving by a drunken person or by a person under the influence of drugs. - Whoever, while driving, or attempting to drive, a motor vehicle,-

(a) has, in his blood, alcohol exceeding 30 mg. per 100 ml. of blood detected in a test by a breath analyser, or

(b) is under the influence of a drug to such an extent as to be incapable of exercising proper control over the vehicle,

shall be punishable for the first offence with imprisonment for a term which may extend to six months, or with fine which may extend to two thousand rupees, or with both; and for a second or subsequent offence, if committed within three years of the commission of the previous similar offence, with imprisonment for a term which may extend to two years, or with fine which may extend to three thousand rupees, or with both.”

13. Section 185 of the Motor Vehicles Act is applicable when, a person drives or attempting to drive a motor vehicle has, in his blood, alcohol exceeding 30 mg. per 100 ml. of blood detected in a test by a breath analyser or is under the influence of a drug to such as extent as to be incapable of exercising proper control over the vehicle.

19. Since we find that the offences committed by the appellant as mentioned supra do not fall under the definition of 'offence involving moral turpitude', the contention of the respondent cannot be accepted. Section 10 of the Banking Regulation Act, 1949 clearly states that no banking company shall employ or continue the employment of any person, who has been convicted by a criminal court for an offence involving 'moral turpitude'. Thus, if any person is involved in an offence involving 'moral turpitude', it is not open for the Bank to appoint him. But, in the matter on hand, we find that the offence committed by the appellant may not be trivial in nature, but it will not come within the definition of 'offence involving moral turpitude'.

(emphasis supplied)

21. In our opinion, the decision in **Anand John's** case (supra) would be squarely applicable in the facts of the present case.

22. Mr. Joshi's reliance on the decision of the Punjab and Haryana High Court in **Darshan Singh (supra)** is also quite apposite. In such decision, the Court has observed that road accidents are, often, the result of an error of judgment or mechanical failures. It was observed that the accidents can also occur on account of the fault of the other vehicle and hence in such cases, it would not be justified or rational to hold that the driver is guilty of an offence involving moral turpitude in the absence of mens rea. We fully subscribe to these eloquent observations.

23. In the light of the above discussion, we are more than satisfied that respondent nos. 1 and 3 were not correct, and/or were illegal, to hold that merely because the petitioner was involved in a motor vehicle accident leading to the FIR in question, under which he was arrested and suffered custody for

more than 48 hours, the petitioner was likely to be guilty of an offence involving moral turpitude. We may observe that normally in a motor vehicle accident, unless the circumstances speak otherwise, there can be no question of any mens rea or a criminal intent. In the facts of the present case, it cannot be held that the petitioner should suffer suspension on the ground of he being involved in an offence involving moral turpitude. Thus, the action on the part of respondent nos. 1 and 3 to suspend the petitioner by the order impugned in the present proceedings would be patently illegal. We are accordingly inclined to allow the Writ Petition by the following order:

ORDER

a) The petition stands allowed in terms of prayer clauses (a) and (c), which reads thus:

“a) Issue appropriate Writ/Order for quashing and setting aside the impugned order of suspension dated 28.11.2022 which has been issued by respondent no. 1 to be illegal, arbitrary and without following proper procedure.

c) Issue appropriate Writ/Order directing the respondents to permit petitioner to work as Associate Professor on his original post on such terms as this Hon’ble Court may deem fit and proper.”

b) Needless to observe that as now the petitioner is reinstated, the petitioner would be required to be paid the regular salary for the entire period of suspension till reinstatement and for which

the respondents are at liberty to make appropriate proposal to the State Government.

c) We clarify that the observations in the present judgment are made only in the context of the issue before the Court, that is of the petitioner's suspension. This observation shall not prejudice the contentions of the parties in any criminal proceedings in relation to the accident in question.

d) Rule is made absolute in the above terms. No costs.

(JITENDRA JAIN, J.)

(G. S. KULKARNI, J.)