

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-24038-2021 (O&M)

Brahmjeet Kaushal

... Petitioner

VS.

Union of India & Ors.

... Respondents

1.	Judgment reserved on	23.01.2026
2.	Judgment pronounced on	13.03.2026
3.	Judgment uploaded on	16.03.2026
4.	Whether operative or full judgment	Full
5.	Delay in pronouncement of full judgment and reasons, if any	NA

CORAM: HON'BLE MR.JUSTICE SANDEEP MOUDGIL

Present: Mr. Karnail Singh, Advocate for the petitioner

Mr. Dheeraj Jain, Sr.Advocate with

Mr. Sahil Garg, Advocate for respondent No.1

Ms. Madhu Dayal, Advocate for respondents No.2 to 4

Sandeep Moudgil, J.

(1). The jurisdiction of this Court has been invoked under Article 226 of the Constitution of India, *inter alia*, for issuing a writ of certiorari quashing the impugned order dated 27.06.2019 (Annexure P5) whereby the services of the respondents have been discharged from 14.12.2018 and for directing the respondents to grant all consequential benefits from 15.12.2018.

(2). Learned counsel for the petitioner submits that the petitioner was working as Branch Manager MMGS-III at Panipat and while in service, an FIR No.314 dated 27.05.2000 was registered under Section 304-B/406/498-A IPC against him and his family members wherein there were allegations of demand of dowry and abetment for committing suicide by the deceased-wife. He submits that the Sessions Court vide judgment dated 28.10.2002 (Annexure P2) acquitted the petitioner under Sections 304-B and 406 IPC but was held guilty

under Section 498-A IPC and was sentenced to under RI for 3 years with fine of Rs.5000/-. Resultantly, the respondent-Bank vide impugned order dated 19.06.2019 discharged the petitioner from service on the ground that the conviction under Section 498-A IPC amounts to offence involving moral turpitude, w.e.f. 14.12.2018 the date on which the trial court judgment assailed by the petitioner in CRA-S-1783-SB-2002 was upheld by a Division Bench of this Court vide judgment dated 14.12.2018.

(3). Counsel for the petitioner while assailing the impugned order dated 14.12.2018 argued that the Appointing Authority has merely recited that the petitioner stands “convicted of an offence involving moral turpitude” and has invoked Rule 68(7)(i) of the State Bank of India Officers’ Service Rules, 1992 (in short, the 1992 Rules) and ordered his discharge from service w.e.f. 14.12.2018, without disclosing any reasons as to how conviction under Section 498-A IPC, arising out of a domestic matrimonial dispute, answers the description of an offence involving ‘moral turpitude’. It is urged that neither any list of offences is prescribed by the Bank nor any discussion is found in the order showing application of the well-settled tests for “moral turpitude” as elucidated by the Supreme Court in **State Bank of India & Others v. P. Soupramaniane, (2019) 18 SCC 135.**

(4). It is argued that a conviction under Section 498-A IPC, particularly where the allegations essentially relate to neglect, insult and harassment in a strained marriage, cannot, per se and without factual analysis, be mechanically equated with an offence involving moral turpitude

(5). It is further contended that the criminal courts, from the Court of Session up to the Hon’ble Supreme Court, have nowhere recorded that the

petitioner's conviction under Section 498-A IPC is the one involving moral turpitude although even the Sessions Court has proceeded to convict him only under Section 498-A, treating it as a minor offence of the same genre as Section 304-B, while acquitting him of the latter without there being any observation of any depravity, vileness or moral perversity in his conduct amounting to 'moral turpitude'. He submits that the suicide note (Ex.PD) recovered from the deceased wife's kameez, wherein she clearly stated that she was committing suicide on her own and that none should be held responsible, without attributing any specific act of violence, dowry demand or cruelty to the petitioner, further negates any inference of such depraved conduct as would shock the moral conscience of society.

(6). Learned counsel also draws support from the principle enunciated by this Court in (i) *Navjit Singh vs. State of Punjab & Ors. (CWP No.887 of 2015)* decided on 03.07.2019; and (ii) *Gurnam Singh vs. PSPCL & Ors. (CWP No.2186 of 2016)* decided on 06.11.2019 to contend that matrimonial allegations made by a spouse do not, by themselves, reflect upon the character and conduct of an employee in the discharge of his official duties, and that, where dismissal or discharge is founded on conviction, it is incumbent upon the disciplinary/appointing authority to consider the nature of the conduct which led to conviction and the the overall service record besides the gravity of misconduct and its impact on the administration, as well as extenuating or redeeming circumstances. It is submitted that in the present case the Appointing Authority has not even adverted to the petitioner's long and unblemished service record, his promotions from Clerk to JMSG Scale-I, then MMSG Scale-II and MMSG Scale-III, or to the fact that, during the currency of the

criminal case remained pending, his integrity and efficiency in service were never questioned.

(7). It is, thus, urged that the impugned order neither discloses any independent assessment of the petitioner's conduct in relation to his official duties nor any reasoning as to how the personal matrimonial dispute and conviction under Section 498-A IPC make him unfit for continuance in service, for the order rests solely on a bald and undefined label of "moral turpitude" and the requirement of considering the impact of the alleged conduct on service. He contended that punishment of discharge, visited on this slender foundation, is asserted to be grossly disproportionate and violative of the principles of fairness and proportionality in service jurisprudence and as such, petitioner's conviction under Section 498-A IPC, in the facts and circumstances of the present case, cannot be treated as an offence involving 'moral turpitude' within the meaning of Rule 68(7)(i) of the 1992 Rules and Section 10(1)(b)(i) of the Banking Regulation Act, 1949 besides the impugned order, being cryptic and arbitrary.

(8). On the other hand, Ms. Madhu Dayal, Advocate for respondents No.2 to 4 submits that the impugned order of discharge is fully justified under Section 10(1)(b)(i) of the Banking Regulation Act, 1949 and Rule 68(7)(i) of the 1992 Rules, which prohibit continuance in service of a bank officer who has been convicted of an offence involving 'moral turpitude'. It is urged that the competent authority has specifically treated the petitioner's conviction under Section 498-A IPC as one for an offence involving moral turpitude and that such characterization stands supported by the judgment of the Andhra Pradesh High Court in **J. Ranga Raju v. State of Andhra Pradesh, W.P. No. 7735 of 2019** decided on 01.10.2019 where, after surveying the jurisprudence on moral

turpitude, the Court held that conviction under Section 498-A IPC for harassing a woman and subjecting her to cruelty “is undoubtedly an offence involving moral turpitude” and that such conviction validly attracts dismissal from service.

(9). She further contended that the petitioner’s conviction under Section 498-A IPC has been affirmed up to the Hon’ble Supreme Court and even his review petition stands dismissed, therefore, the Bank, as a public financial institution, cannot ignore a subsisting conviction for cruelty which has resulted in loss of human life, *moreso*, when acts of sustained cruelty and harassment towards a married woman reflect baseness, vileness and depravity in private and social duties, and hence squarely fall within the accepted definition of “moral turpitude”, particularly when the employee holds a position of trust in a banking organisation dealing with public money. The plea that promotions were granted in the past is immaterial since promotions neither wipe out the conviction nor fetter the employer’s statutory power and obligation to act once the conviction and its nature come to light.

(10). As regards the judgments cited by the petitioner, learned counsel for the respondent Bank urged that those cases turned on different fact situations and, in any event, do not lay down that offences under Section 498-A IPC can never involve moral turpitude and on the contrary, the Courts have consistently treated such conviction as involving moral turpitude where the conduct discloses coercive harassment of a woman and dishonesty contrary to modesty and good morals.

(11). Heard learned counsel for the parties

(12). It is an undisputed fact that the respondent-Bank has discharged the petitioner from service solely on the basis of his conviction under Section 498-A IPC, by invoking Section 10(1)(b)(i) of the Banking Regulation Act, 1949 read with Rule 68(7)(i) of the 1992 Rules, apparently, without holding any departmental enquiry or affording him any opportunity of hearing on the question of proposed penalty. The impugned order is silent as to any charge-sheet, show cause notice, or consideration of the petitioner's explanation, service record or mitigating circumstances, and contains only a bald recital that the conviction involves "moral turpitude".

(13). The expression "moral turpitude" has not been defined in the Banking Regulation Act or the service rules governing the parties. However, the Courts have consistently held "moral turpitude" to be a concept dependent upon the nature of the act, the surrounding circumstances, and its bearing upon the duties of the employee. The Supreme Court in ***Pawan Kumar v. State of Haryana, (1996) 4 SCC 17***, observed that moral turpitude implies conduct which is inherently base, depraved or contrary to accepted standards of morality, but its determination must depend upon the facts of each case and the impact of the act on the duties discharged by the employee.

Relevant extracts of the above said judgment is reproduced as under:-

"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 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 Indian Penal Code 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 in 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 offence which are not included in it but which in certain situations and circumstances may involve moral turpitude."

(14). In **Allahabad Bank v. Deepak Kumar Bhola, (1997) 4 SCC 1**,

the Supreme Court clarified that although conviction for an offence involving moral turpitude may furnish a valid ground for disciplinary action, the disciplinary authority must nonetheless examine whether the nature of the offence bears a rational nexus with the duties of the employee and the integrity expected in the post held. The decision emphasises that the authority cannot act mechanically merely because a conviction exists, rather, the gravity of the offence, the nature of employment, and the surrounding circumstances must be evaluated before imposing the penalty of dismissal.

The relevant part of the same is as under:-

*"10. This Court in **Pawan Kumar v. State of Haryana and another, JT 1996(5) SC 155 : 1996(3) SCT 339(SC) : (1996) 4 SCC 17** at page 21 dealt with the question as to what is the meaning of expression "moral turpitude" and it was observed as follows:*

""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."

11. This expression has been more elaborately explained in **Baleshwar Singh v. District Magistrate and Collector, Banaras, AIR 1959 Allahabad 71** where it was observed as follows:

"The expression 'moral turpitude' is not defined anywhere. But it means anything done contrary to justice, honesty, modesty or good morals. It implies depravity and weakness of character or disposition of the person charged with the particular conduct. Every false statement made by a person may not be moral turpitude, but it would be so if it discloses vileness or depravity in the doing of any private and social duty which a person owes to his fellow men or to the society in general. If therefore the individual charged with a certain conduct owes a duty, either to another individual or to the society in general, to act in a specific manner or not to so act and he still acts contrary to it and does so knowingly, his conduct must be held to be due to vileness and depravity. It will be contrary to accepted customary rule and duty between man and man."

12. **In our opinion the** aforesaid observations correctly spell out the true meaning of the expression "moral turpitude". Applying the aforesaid test, if the allegations made against the respondent are proved, it will clearly show that he had committed an offence involving moral turpitude and, therefore, the appellant had the jurisdiction to suspend him under the aforesaid clause 19.3. The High Court observed that there was nothing on record to suggest that the management had formed an opinion objectively on the consideration of all relevant material available against the petitioner that in the circumstances of the case the criminal acts attributed to the petitioner implied depravity and vileness of character and are such as would involve moral turpitude. It did not regard entering into a criminal conspiracy to commit the aforesaid offences as being an offence involving moral turpitude."

(15). What is essential is that dismissal or discharge from service of an employee, particularly after a criminal conviction, must be assessed on a standard of reasonableness and proportionality, focusing on whether the employee's conduct has a real connection with the employer's reputation, the element of trust and the operational functioning of the organisation, rather than treating the conviction as an automatic ground for termination. It is incumbent upon the competent authority to apply a "range of reasonable

responses” test, underscoring that dismissal or discharge must be justified by work-related reasons and not by the conviction alone, with emphasis on categories of serious offences and on integrity and trust in the context of the duties performed.

(16). In **Union of India v. Tulsiram Patel, (1985) Supp 2 SCC 131**, the Constitution Bench of the Supreme Court upheld dispensing with enquiry only in the narrow situations covered by the second proviso to Article 311(2), but simultaneously underscored that the disciplinary authority must still apply its mind to the circumstances of the case and that arbitrary or mechanical exercise remains justiciable.

(17). The requirement of recording reasons while imposing the penalty is equally integral to administrative fairness. In **Kranti Associates Pvt. Ltd. v. Masood Ahmed Khan, (2010) 9 SCC 496**, the Supreme Court reiterated that the recording of reasons is a fundamental facet of the rule of law and ensures transparency in decision-making. An order which merely reproduces statutory language or records a bald conclusion, without disclosing the reasoning process of the authority, fails to meet the standard of a reasoned administrative decision and becomes vulnerable to judicial review, while holding that *“the face of an order passed by a quasi-judicial authority or even an administrative authority affecting the rights of parties, must speak. It must not be like the 'inscrutable face of a Sphinx”*.

(18). The Supreme Court in **P.Soupramaniane’s** case observed that disciplinary authorities are required to apply their independent mind to the facts of the case and cannot treat conviction as an automatic trigger for dismissal without examining the attendant circumstances. It was held that:-

“8. There is no doubt that there is an obligation on the Management of the Bank to discontinue the services of an employee who has been convicted by a criminal court for an offence involving moral turpitude. Though every offence is a crime against the society, discontinuance from service according to the Banking Regulation Act can be only for committing an offence involving moral turpitude. Acts which disclose depravity and wickedness of character can be categorized as offences involving moral turpitude. Whether an offence involves moral turpitude or not depends upon the facts and the circumstances of the case. 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.*

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.”

(19). Viewed through the prism of these principles, it becomes evident that the disciplinary authority cannot simply reproduce the phrase “conviction involving moral turpitude” and proceed to terminate service. The authority is obligated to evaluate the nature of the offence, its nexus with official duties, the surrounding circumstances, the employee’s service record, and the proportionality of the proposed punishment. The absence of such analysis renders the decision mechanical and arbitrary.

(20). At this stage, Ms. Madhu Dayal, learned counsel for respondents No. 2 to 4, drew the attention of the Court to certain decisions of other High Courts where an offence committed by an employee under Section 498-A IPC has been treated as an offence involving moral turpitude. She submitted that these Courts have taken the view that cruelty to a married woman is, by its very nature, conduct which society regards as unethical and

morally unacceptable, and therefore falls within the category of moral turpitude. On the strength of these precedents, she argued that, since the charge under Section 498-A IPC stands proved against the petitioner in the present case, his conduct must also be so characterised and the same consequences should follow.

(21). There is, at present, no uniform judicial consensus on whether every conviction under Section 498-A IPC constitutes an offence involving moral turpitude. Certain High Courts, such as the Kerala High Court in *Vincent Varghese v. State Bank of India, 1999 SCC OnLine Ker 22* and the Andhra Pradesh High Court in *J.Ranga Raju v. State of Andhra Pradesh & Ors., W.P. No. 7735 of 2019* decided on 01-10-2019, have held that an offence under Section 498-A IPC constitutes an offence involving moral turpitude, on the reasoning that harassment of a married woman and subjecting her to cruelty would, in societal parlance, be regarded as unethical and immoral conduct and would be treated as the commission of a heinous crime in the estimation of right-thinking members of society.

(22). With all humility at my command, a careful distinction becomes necessary, on the one hand, between the genuine cases of egregious dowry-related cruelty which shock the collective conscience of the society as a whole, and, on the other hand, prosecutions arising out of essentially personal disputes within the precincts of the matrimonial home, which may culminate in compromise, acquittal, or even conviction based on findings of only technical or marginal cruelty.

(23). Categorisation of a particular case under Section 498-A IPC may or may not involve moral turpitude depends on its own facts and is

always debatable, and reasonable people may differ on that question. What cannot be accepted, however, is any general rule that every offence under Section 498-A IPC, by its very nature, must automatically be translated into an offence involving moral turpitude for the purpose of civil consequences such as employment, promotion or higher education.

(24). On a plain reading of Section 498-A IPC, the gravamen of the offence is 'cruelty' inflicted upon a wife by her husband or his relatives. Its axis is the matrimonial relationship and the conduct within that intimate sphere. To elevate every prosecution under Section 498-A, irrespective of its factual substratum, into an 'offence against society' and, on that abstract footing, to brand it in all cases as an offence involving moral turpitude, is a proposition which cannot withstand legal scrutiny. If that idea is accepted, then almost every offence in the Indian Penal Code or Bharatiya Nyaya Sanhita could easily be described as dealing with a 'societal' problem, and almost every conviction would have to be treated as involving moral turpitude. This would wipe out the important difference between ordinary criminal offences and only those acts which are so base, vile, depraved or so shocking to the public conscience, that they deserve to be characterised against involving 'moral turpitude'.

(25). The law does not proceed on sweeping generalities of this kind. It demands a fact-sensitive inquiry into the nature, degree and context of the cruelty actually proved in a given case, and it is only where those facts disclose genuine moral depravity, rather than merely a strained matrimonial relationship, that the label of an offence involving moral turpitude can legitimately be imposed.

(26). The petitioner in the present case has been acquitted of the graver charges under Sections 304-B and 406 IPC and stands convicted only under Section 498-A IPC arising out of matrimonial discord. Such offence, though punishable, is rooted in a domestic dispute and does not by its very nature satisfy the tests of inherent baseness or depravity so as to automatically fall within the category of offences involving moral turpitude.

(27). In view of the above discussion, this writ petition is allowed; the impugned order dated 27.06.2019 (Annexure P5) whereby the services of the respondents have been discharged from 14.12.2018 is hereby set aside and the respondents are directed to grant all consequential benefits to the petitioner from 15.12.2018 along with interest @ 6% p.a. within a period of 2 months from the date of receipt of certified copy of this order.

(28). Ordered accordingly.

(29). Pending application(s), if any, also stands disposed of.

13.03.2026

V.Vishal

(Sandeep Moudgil)
Judge

1. Whether speaking/reasoned? :
2. Whether reportable? :

Yes/No
Yes/No