

**Wilful misconduct and negligence simplicitor are not inter changeable terms and have different connotations in law.**

“12. It is not in dispute that a disciplinary proceeding was initiated against the appellant in terms of the provisions of the Delhi Police (Punishment and Appeal) Rules, 1980. It was, therefore, necessary for the disciplinary authority to arrive at a finding of fact that the appellant was guilty of an unlawful behaviour in relation to discharge of his duties in service, which was wilful in character. No such finding was arrived at. An error of judgment, as noticed hereinbefore, per se is not a misconduct. A negligence simpliciter also would not be a misconduct. In *Union of India v. J. Ahmed*<sup>3</sup> whereupon Mr Sharan himself has placed reliance, this Court held so stating: (SCC pp. 292-93, para 11)

“11. Code of conduct as set out in the Conduct Rules clearly indicates the conduct expected of a member of the service. It would follow that conduct which is blameworthy for the government servant in the context of Conduct Rules would be misconduct. If a servant conducts himself in a way inconsistent with due and faithful discharge of his duty in service, it is misconduct (see *Pearce v. Foster*). A disregard of an essential condition of the [contract](#) of service may constitute misconduct [see *Laws v. London Chronicle (Indicator Newspaper)*]. This view was adopted in *Shardaprasad Onkarprasad Tiwari v. Divisional Supdt., Central Rly., Nagpur Division, Nagpur* and *Satubha K. Vaghela v. Moosa Raza*. The High Court has noted the definition of misconduct in *Stroud's Judicial Dictionary* which runs as under:

*'Misconduct means, misconduct arising from ill motive; acts of negligence, errors of judgment, or innocent mistake, do not constitute such misconduct'.*”

(emphasis supplied)

13. The Tribunal opined that the acts of omission on the part of the appellant were not a mere error of judgment. On what premise the said opinion was arrived at is not clear. We have noticed hereinbefore that the Appellate Authority, namely, the Commissioner of Police, Delhi, while passing the order dated 29-8-2003 categorically held that the appellant being a raiding officer should have seized the tainted money as case property. In a given case, what should have been done, is a matter which would depend on the facts and circumstances of each case. No hard-and-fast rule can be laid down therefor.”

*Inspector Prem Chand v. Govt. of NCT of Delhi*, (2007) 4 SCC 566